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TITLE 22 EXAMINING BOARDS

PART 32 STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

CHAPTER 741 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

SUBCHAPTER A DEFINITIONS

§741.1 Definitions

Unless the context clearly indicates otherwise, the following terms have the following meanings in this chapter.

- (1) ABA--The American Board of Audiology.
- (2) Act--Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists.
- (3) Acts--Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists; and Occupations Code, Chapter 402, relating to Hearing Instrument Fitters and Dispensers.
- (4) ASHA--The American Speech-Language-Hearing Association.
- (5) Assistant in audiology--An individual who provides audiological support services to clinical programs under supervision of a board-approved audiologist licensed under the Act.
- (6) Assistant in speech-language pathology--An individual who provides speech-language pathology support services under the Act.
- (7) Audiologist--An individual who holds a current, renewable, unrestricted license under Occupations Code, §401.302 and §401.304, to practice audiology.
- (8) Audiology--The application of nonmedical principles, methods, and procedures for measurement, testing, appraisal, prediction, consultation, counseling, habilitation, rehabilitation, or instruction related to disorders of the auditory or vestibular systems for the purpose of providing or offering to provide services modifying communicative disorders involving speech, language, or auditory or vestibular function or other aberrant behavior related to hearing loss.
- (9) Board--The State Board of Examiners for Speech-Language Pathology and Audiology.
- (10) Caseload--The number of clients served by the licensed speech-language pathologist or licensed speech-language pathology intern.

(11) Client--A consumer or proposed consumer of audiology or speech-language pathology services.

(12) Department--Department of State Health Services.

(13) Ear specialist--A licensed physician who specializes in diseases of the ear and is medically trained to identify the symptoms of deafness in the context of the total health of the client, and is qualified by special training to diagnose and treat hearing loss. Such physicians are also known as otolaryngologists, otologists, neurotologists, otorhinolaryngologists, and ear, nose, and throat specialists.

(14) Extended absence--More than two consecutive working days for any single continuing education experience.

(15) Extended recheck--Starting at 40 dB and going down by 10 dB until no response is obtained or until 20 dB is reached and then up by 5 dB until a response is obtained. The frequencies to be evaluated are 1,000, 2,000, and 4,000 hertz (Hz).

(16) Fitting and dispensing hearing instruments--The measurement of human hearing by the use of an audiometer or other means to make selections, adaptations, or sales of hearing instruments. The term includes the making of impressions for earmolds to be used as a part of the hearing instruments and any necessary postfitting counseling for the purpose of fitting and dispensing hearing instruments.

(17) Hearing instrument--Any wearable instrument or device designed for, or represented as aiding, improving or correcting defective human hearing. This includes the instrument's parts and any attachment, including an earmold, or accessory to the instrument. The term does not include a battery or cord.

(18) Hearing screening--A test administered with pass/fail results for the purpose of rapidly identifying those persons with possible hearing impairment which has the potential of interfering with communication.

(19) Intern in audiology--An individual licensed under Occupations Code, §401.311, and §741.82 of this title (relating to Requirements for an Intern Audiology License) and who works under the direction of an individual who holds a current, renewable, unrestricted audiology license under Occupations Code, §401.302 and §401.304.

(20) Intern in speech-language pathology--An individual licensed under Occupations Code, §401.311, and §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) and who works under the direction of an individual who holds a current, renewable, unrestricted speech-language pathology license under Occupations Code, §401.302 and §401.304.

(21) Provisional Licensee--An individual granted a provisional license under Occupations Code, §401.308.

(22) Renewal Period--A two-year cycle for a license.

(23) Sale or purchase--Includes the sale, lease or rental of a hearing instrument or augmentative communication device to a member of the consuming public who is a user or prospective user of a hearing instrument or augmentative communication device.

(24) Speech-language pathologist--An individual who holds a current, renewable, unrestricted license under Occupations Code, §401.302 and §401.304, to practice speech-language pathology.

(25) Speech-language pathology--The application of nonmedical principles, methods, and procedures for measurement, testing, evaluation, prediction, counseling, habilitation, rehabilitation, or instruction related to the development and disorders of communication, including speech, voice, language, oral pharyngeal function, or cognitive processes, for the purpose of evaluating, preventing, or modifying or offering to evaluate, prevent, or modify those disorders and conditions in an individual or group.

(26) Supervisor--An individual who holds a current, renewable, unrestricted license under Occupations Code §401.302 and §401.304 and whom the board has approved to directly oversee the services provided by the assigned board-approved assistant and/or intern.

(27) Telehealth--See definition(s) in Subchapter O. Telehealth, §741.211 of this title (relating to Definitions Relating to Telehealth).

(28) Under the direction of--The speech-language pathologist or audiologist supervises and directly oversees the services provided and accepts professional responsibility for the actions of the personnel he or she agrees to direct. **SUBCHAPTER B THE BOARD**

§741.11 Officers

(a) The presiding officer shall preside at all meetings at which he or she is in attendance, perform all duties prescribed by law, the Act or this chapter, and is authorized by the board to make day-to-day minor decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.

(b) The assistant presiding officer shall perform the duties of the presiding officer should the presiding officer be absent, become disabled, or vacate the office. In the event the office is vacated, the assistant presiding officer shall serve until a successor is named.

§741.12 Committees

(a) The presiding officer may appoint board members to committees to assist the board in its work. All committees shall consist of no more than four members and shall make regular reports to the board by interim written reports or at regular meetings. Standing committees shall include:

(1) complaints;

- (2) rules;
- (3) speech-language pathology scope of practice;
- (4) audiology scope of practice; and
- (5) legislative review.

(b) Board members may also be appointed to individually assist the board office with specific issues. The board member shall report any decisions made to the full board at the next scheduled meeting for ratification. Items that shall be discussed include:

- (1) fees/budget;
- (2) applications/renewals;
- (3) continuing education;
- (4) exemptions to the Act;
- (5) supervision of interns and assistants;
- (6) public relations;
- (7) health professions council; and
- (8) fitting and dispensing of hearing instruments.

(c) Members appointed to the complaints committee shall consist of one audiologist, one speech-language pathologist, one public member, and other members as appointed by the board chair. The committee chair shall call a meeting whenever necessary.

§741.13 Transaction of Official Business

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

(b) The board shall elect, by a simple majority vote of those members present, an assistant presiding officer at the meeting held nearest to January 1st. If a vacancy occurs, it shall be filled by a simple majority vote of those members present at any board meeting.

(c) The executive director shall prepare and submit an agenda to the board prior to each meeting. The agenda shall include:

- (1) items required by law;

(2) items requested by members; and

(3) other items of board business approved for discussion by the presiding officer.

(d) The board shall make all official decisions according to parliamentary procedure as set forth in Robert's Rules of Order Revised. If a question arises concerning interpretation of Robert's Rules of Order Revised, the presiding officer or assistant presiding officer shall make the decision.

(e) The board shall not be bound in any way by any statement or action on the part of any board member, committee, or staff member except when a statement or action is in pursuance of the specific instruction of the board.

§741.14 Petition for Adoption of a Rule

(a) A person shall submit a written petition to the board requesting adoption of a rule. The petition shall contain the following:

(1) the petitioner's name, address, and telephone number;

(2) a brief explanation of and justification for the proposed rule;

(3) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

(4) a statement of the statutory or other authority under which the rule is to be adopted;

(5) a statement of the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule;

(b) The petition shall be submitted to the executive director.

(c) The executive director shall submit the completed petition to the board for its consideration.

(d) Within 60 days after receipt of the completed petition by the executive director, the board shall either:

(1) deny the petition;

(2) initiate rule-making procedures in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001; or

(3) deny parts of the petition and/or institute rule-making procedures on parts of the petition.

(e) If the board denies the petition, the executive director shall give the petitioner written notice of the board's denial, including the reason for the denial.

(f) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.

(g) All initial petitions for the adoption of a rule shall be presented to and decided by the board in accordance with the provisions of this section.

§741.15 Impartiality and Nondiscrimination

(a) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or in a disciplinary action against a licensee shall so declare this to the board and shall not participate in any board proceedings involving that applicant or licensee.

(b) The board shall make no decision in the discharge of its statutory authority with regard to any person's race, religion, color, gender, national origin, age, disability, sexual orientation, genetic information, or family health history.

(c) Applicant with disabilities.

(1) The board shall comply with the Americans with Disabilities Act.

(2) Applicants with disabilities shall inform the board 30 days in advance of any special accommodations needed. **SUBCHAPTER C SCREENING PROCEDURES**

§741.31 Communication Screening

(a) Individuals licensed under the Act may participate in communication screening.

(b) Communication screening should include cursory assessments of language and speech to determine if further testing is indicated. Formal instruments and informal observations may be used for the assessment. If the screening is not passed, a detailed evaluation is indicated.

(1) The aspects of language to be screened may include phonology, morphology, syntax, semantics, and pragmatics.

(2) The aspects of speech to be screened may include articulation or speech sound production, voice (including phonation and resonance), and fluency.

(c) Language and speech screening should be conducted in the client's dominant language and primary mode of communication.

§741.32 Hearing Screening

(a) Individuals licensed under the Act may participate in hearing screening.

(b) Hearing screening shall be performed and interpreted as follows.

(1) Use a screening level of 25 dB HL (ANSI, 1996) for pre-kindergarten and kindergarten, and 20 dB HL (ANSI, 1996) for grades 1 through 12, at the frequencies of 1,000, 2,000, and 4,000 hertz (Hz) in both ears.

(2) The criterion for failure is no response at the screening level at any one frequency in either ear.

(3) Screening failures shall be followed with a second pure-tone air conduction screening utilizing the same protocol within four weeks.

(c) If the second pure-tone air conduction screening is failed, a recommendation shall be made for a professional evaluation by a licensed physician or a licensed audiologist. If the person screened was a minor, the recommendation shall be made to a parent or guardian.

§741.33 Newborn Hearing Screening

(a) Individuals licensed under the Act may participate in universal newborn hearing screening as defined by the Texas Health and Safety Code, Chapter 47.

(b) Individuals licensed under this Act are subject to 25 Texas Administrative Code Chapter 37, regarding reporting hearing screening or audiologic outcomes to the Department of State Health Services (DSHS) through the designated electronic tracking system and 40 Texas Administrative Code §108.9, regarding referral of children under the age of three years to Early Childhood Intervention (ECI) within two days of identification. **SUBCHAPTER D CODE OF ETHICS; DUTIES AND RESPONSIBILITIES OF SUPERVISORS**

§741.41 Professional Responsibilities of License Holders

(a) A licensee shall:

(1) engage in only those aspects of the profession that are within the scope of the licensee's competence considering level of education, training, and experience;

(2) ensure a safe therapy environment;

(3) provide services as specified in the treatment plan, Individual Education Plan (IEP), or Individualized Family Service Plans (IFSP);

(4) seek appropriate medical consultation whenever indicated;

(5) seek to identify competent, dependable referral sources for clients;

(6) maintain objectivity in all matters concerning the welfare of the client;

(7) ensure that all equipment used is in proper working order and is properly calibrated;

- (8) terminate a professional relationship when it is reasonably clear that the client is not benefiting from the services being provided;
- (9) provide accurate information to clients and the public about the nature and management of communication disorders and about the profession and the services rendered;
- (10) notify the board in writing of changes of name, highest academic degree granted, address, and telephone number. The board is not responsible for lost, misdirected, or undelivered mail;
- (11) notify the board of changes in name or preferred mailing address within 30 days of such change(s). Notification must include the name, mailing address, and zip code, and be mailed, faxed, or sent by electronic mail to the executive director;
- (12) inform the board of violations of the Act, this code of ethics, or of any other provision of this chapter;
- (13) comply with any order relating to the licensee which is issued by the board;
- (14) report in accordance with the Family Code, §261.101(b), if there is cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect by any person;
- (15) cooperate with the board by promptly furnishing required documents and by promptly responding to a request for information from, or a subpoena issued by, the board or the board's designee;
- (16) be subject to disciplinary action by the board if the licensee or registrant is issued a written reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the Code of Criminal Procedure, Articles 56.31-56.64 (relating to the Crime Victims Compensation Act);
- (17) comply with the Health and Safety Code, Chapter 85, Subchapter I, concerning the Prevention of Transmission of HIV and Hepatitis B Virus by Infected Healthcare Workers; and
- (18) fully inform clients of the:
 - (A) results of an evaluation within 60 days, upon request;
 - (B) nature and possible effects of the services rendered; and
 - (C) nature, possible effects, and consequences of activities if the client is participating in research or teaching activities.
- (19) notify the board office in writing not later than 30 days after the occurrence in any U.S. state or territory of the following:

(A) the licensee's deferred adjudication or criminal conviction, other than a Class C misdemeanor traffic offense;

(B) the settlement of or judgment rendered in a civil lawsuit filed against the licensee and relating to the licensee's professional practice in speech-language pathology or audiology; or

(C) complaints, investigations, or actions against the licensee by a governmental agency or by a licensing or certification body.

(b) A licensee shall not:

(1) engage in the medical treatment of speech-language and hearing disorders;

(2) jeopardize a client's safety by any inattentive behavior;

(3) guarantee, directly or by implication, the results of any therapeutic procedures except as follows:

(A) a reasonable statement of prognosis may be made; and

(B) caution must be exercised not to mislead clients to expect results that cannot be predicted from reliable evidence;

(4) delegate any service requiring professional competence of a licensee or registrant to anyone not licensed or registered for the performance of that service;

(5) provide services if the services cannot be provided with reasonable skill or safety to the client;

(6) provide any services which create an unreasonable risk that the client may be mentally or physically harmed;

(7) engage in sexual contact, including intercourse, kissing, or fondling, with a client or an assistant, intern, or student supervised by the licensee;

(8) use alcohol or drugs when the use adversely affects or could adversely affect the licensee's provision of professional services;

(9) reveal, without authorization, any professional or personal information about the person served professionally, unless required by law to do so, or unless doing so is necessary to protect the welfare of the person or of the community;

(10) participate in activities that constitute a conflict of professional interest which may include the following:

(A) exclusive recommendation of a product that the licensee owns or has produced;

(B) lack of accuracy in the performance description of a product a licensee or registrant has developed; or

(C) restriction of freedom of choice for sources of services or products;

(11) use his or her professional relationship with a client, intern, assistant, or student to promote for personal gain or profit any item, procedure, or service unless the licensee or registrant has disclosed to the client, intern, assistant, or student the nature of the licensee's or registrant's personal gain or profit;

(12) misrepresent his or her training or competence;

(13) falsify records;

(14) aid or abet the practice of an unlicensed person when that person is required to have a license under the Act;

(15) interfere with a board investigation or disciplinary proceeding by willful misrepresentation or omission of facts to the board or the board's designee or by the use of threats or harassment against any person;

(16) offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting clients or patronage for or from any health care professional;

(17) endanger the health, welfare, or safety of the public; or

(18) use threats, threatening behavior, or acts of violence towards clients, employees, or employers.

(c) Failure to notify the board office as required by subsection (a) of this section violates this chapter and is grounds for disciplinary action.

§741.42 Advertising

A licensee shall not present false, misleading, deceptive, or non-verifiable information relating to the services of the licensee or any person supervised or employed by the licensee which includes, but is not limited to:

(1) advertising audiological services when an audiologist is not readily available to assist clients;

(2) using professional or commercial affiliations in any way that would mislead clients or the public;

(3) presenting false, misleading, or deceptive information relating to the following:

- (A) any advertisement, announcement, or presentation;
 - (B) any announcement of services;
 - (C) letterhead or business cards;
 - (D) commercial products;
 - (E) billing statements or charges for services;
 - (F) facsimile broadcast; or
 - (G) website;
- (4) presenting false, misleading, or deceptive advertising that is not readily subject to verification including any manner of communication referenced in paragraph (3) of this section and advertising that:
- (A) makes a material misrepresentation of fact or omits a fact necessary to make the statement as a whole not materially misleading;
 - (B) makes a representation likely to create an unjustified expectation about the results of a health care service or procedure;
 - (C) compares a health care professional's services with another health care professional's services unless the comparison can be factually substantiated;
 - (D) causes confusion or misunderstanding as to the credentials, education, or licensure of a health care professional;
 - (E) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;
 - (F) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;
 - (G) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of client; and
 - (H) advertises or uses a professional name, a title, or professional identification that is expressly or commonly reserved for or used by another profession or professional.

§741.43 Recordkeeping and Billing

- (a) A licensee shall maintain accurate records of professional services rendered.

- (b) Records must be maintained for a minimum of five consecutive years or longer as warranted.
- (c) Records are the responsibility and property of the entity or individual who owns the practice or the practice setting.
- (d) Records created as a result of treatment in a school setting shall be maintained as part of the student's permanent school record.
- (e) A licensee shall bill a client or a third party only for the services actually rendered in the manner agreed to by the licensee and the client or the client's authorized representative.
- (f) A licensee shall provide, in clear language, a written explanation of the charges for speech-language pathology and/or audiology services previously made on a bill or statement for the client upon the written request of a client, a client's guardian, or a client's parent, if the client is a minor.
- (g) A licensee shall comply with the Health and Safety Code, §311.0025, which prohibits improper, unreasonable, or medically unnecessary billing by hospitals or health care professionals.
- (h) A licensee shall use current and appropriate diagnostic and procedure codes.

§741.44 Requirements, Duties, and Responsibilities of Supervisors

- (a) A licensee must have two years of professional experience in providing direct client services in the area of licensure in order to supervise an intern or assistant. The licensee's internship year shall be counted toward the two years of experience.
- (b) A licensee may not supervise an individual that is related to the licensee within the first degree of consanguinity.
- (c) A board-approved supervisor of an intern in speech-language pathology or audiology must possess at least a master's degree with a major in one of the areas of communicative sciences and disorders.
- (d) A board-approved supervisor of an intern or assistant shall:
 - (1) ensure that all services provided are in compliance with this chapter and the Act, such as verifying:
 - (A) the intern or assistant holds a current license;
 - (B) the supervisor has been approved by the board office;
 - (C) the scope of practice is appropriate; and

- (D) the intern or assistant is qualified to perform the procedure;
 - (2) be responsible for all client services performed by the intern or assistant;
 - (3) provide appropriate supervision after the board office approves the supervisory agreement; and
 - (4) supervise no more than a total of four interns and/or assistants.
- (e) In addition to the provisions listed in subsection (d) of this section, a board-approved supervisor of an assistant shall:
- (1) be responsible for evaluations, interpretation, and case management; and
 - (2) not designate anyone other than a licensed speech-language pathologist or intern in speech-language pathology to represent speech-language pathology to an Admission, Review, and Dismissal (ARD) meetings, except as provided by §741.64 of this title (relating to Requirements for an Assistant in Speech-Language Pathology License).
- (f) A licensed intern or assistant shall abide by the decisions made by his or her board-approved supervisor relating to the intern's or assistant's scope of practice. If the board-approved supervisor requests that the intern or assistant violate this chapter, the Act, or any other law, the intern or assistant shall refuse to do so and immediately notify the board office and any other appropriate authority.

§741.45 Consumer Information and Display of License

- (a) A licensee shall make a reasonable attempt to notify each client of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. A licensee shall display notification on a sign prominently displayed in the primary place of business of each licensee; and on a written document such as a written contract, a bill for service, or office information brochure provided by the licensee to a client or third party.
- (b) A licensee shall display the certificate with a current license card as issued by the board in the primary location of practice.
- (c) A holder of a temporary certificate of registration shall display the certificate as issued by the board in the primary location of practice.
- (d) A licensee shall not display a license card or certificate issued by the board which has been photographically or otherwise reproduced.
- (e) A licensee shall not make any alteration on official documents issued by the board.

SUBCHAPTER E REQUIREMENTS FOR LICENSURE OF SPEECH-LANGUAGE PATHOLOGISTS

§741.61 Requirements for a Speech-Language Pathology License

(a) An individual shall not practice as speech-language pathologist without a current license issued by the board. An applicant for the speech-language pathology license shall meet the requirements set out in the Act and this section.

(b) An applicant must submit documentation of the following educational requirements:

(1) a graduate degree from a college or university that has a program accredited by a national accrediting organization that is approved by the board and recognized by the U.S. Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001, et seq.).

(2) original or certified copies of transcripts showing the conferred degree and the following semester credit hours:

(A) at least 36 semester credit hours in professional graduate course work, which may include a maximum of six semester credit hours of clinical experience and a maximum of six semester credit hours toward a thesis or dissertation;

(B) at least 24 semester credit hours in graduate level course work in speech-language pathology including normal development and use of speech, language, and hearing; prevention evaluation, habilitation, and rehabilitation of speech, language, and hearing disorders; and related fields that augment the work of clinical practitioners of speech-language pathology; and

(C) for applications filed before January 1, 2015, six semester credit hours in the area of hearing disorders, hearing evaluation, and habilitative or rehabilitative procedures with individuals who have hearing impairment.

(3) A quarter hour of academic credit is equal to two-thirds of a semester credit hour.

(4) An applicant who possesses a master's degree with a major in audiology may apply for a license in speech-language pathology if the board has an original or certified copy transcript showing completion of a master's degree with a major in audiology on file and a letter from the program director or designee of the college or university stating that the individual completed enough hours to establish a graduate level major in speech-language pathology and that the individual would meet the academic and clinical experience requirements for a license as a speech-language pathologist.

(5) An applicant who graduated from a college or university that is not accredited by the ASHA Council on Academic Accreditation shall submit an original signed letter from ASHA stating the Council for Clinical Certification accepted the course work and clinical experience. The applicant shall bear all expenses incurred during the procedure.

(c) An applicant must submit documentation of the following requirements for the clinical practicum, which consists of supervised clinical direct client contact with individuals who

present a variety of communication disorders within an educational institution or in one of its cooperating programs:

(1) 25 clock hours of supervised observation before completing the clinical practicum; and

(2) the following minimum hours of the clinical practicum:

(A) 275 clock hours if the master's degree was earned prior to November 10, 1993; or

(B) 350 clock hours if the master's degree was earned between November 10, 1993 and December 31, 2004; or

(C) 400 clock hours if the master's degree was earned on or after January 1, 2005.

(d) An applicant must submit documentation of having completed supervised professional clinical work experience in speech-language pathology as set out in §741.62 of this title (relating to Requirements for an Intern in Speech-Language Pathology License) and documentation of the following:

(1) that the applicant was licensed under §741.62 of this title prior to the beginning of the supervised professional experience; and

(2) if the applicant completed the internship in another state and met the requirements in §741.62 of this title, that the supervisor during the internship period:

(A) was licensed in that other state; or

(B) held the ASHA Certificate of Clinical Competence in speech-language pathology if the other state did not require licensing.

(e) An applicant must submit documentation that the applicant passed the examination required in §741.121 of this title (relating to Examination Administration) within:

(1) the past 10 years; and

(2) two years of the completion date of the internship referenced in subsection (d) of this section.

(f) If the applicant passed the examination required in subsection (e) of this section more than two years after the completion date of the internship, the applicant shall obtain the intern license as required by §741.62 of this title and shall repeat the 36 weeks of supervised internship before applying for the speech-language pathology license. The applicant may submit a written request asking the board or board's designee to waive the requirement to repeat the internship.

(g) An applicant who previously held the ASHA Certificate of Clinical Competence and who has had the certificate reinstated may apply for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists).

(h) An applicant applying for a speech-language pathology license under this section shall submit the following to the board:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work, which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;

(4) if not previously submitted when applying for an intern's license, a Course Work and Clinical Experience Form completed by the program director or designee of the college or university attended which verifies the applicant has met the requirements established in subsections (b) - (c) of this section;

(5) a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit an original letter from ASHA stating that the supervisor held the Certificate of Clinical Competence for the duration of the intern period of the applicant;

(6) a Praxis Exam Score Report showing the applicant passed the examination required in §741.121 of this title (relating to Examination Administration) within the time period established in §741.61(e) of this title;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

(i) An applicant for dual licenses in audiology and speech-language pathology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees as follows:

(1) an original board application form for each type of license including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days requesting both licenses;

(2) two separate initial license fees; and

(3) documentation listed in subsection (h)(3) - (8) of this section and in §741.81(f)(3) - (6) of this title.

(j) An applicant who currently holds a license in audiology and wishes to obtain dual licenses by adding a license in speech-language pathology shall submit the following:

(1) an original board application form for speech language pathology including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days requesting the other license;

(2) the initial license fee; and

(3) documentation listed in §741.81(f)(3) - (6) of this title.

§741.62 Requirements for an Intern in Speech-Language Pathology License

(a) An applicant for the intern in speech-language pathology license shall meet the requirements set out in the Act and §741.61(a) - (c) of this title (relating to Requirements for a Speech-Language Pathology License) for the intern license.

(b) In the event the course work and clinical experience set out in subsection (a) of this section were earned more than 10 years before the date of application for the intern license, the applicant shall submit proof of current knowledge of the practice of speech-language pathology. Within 15 working days of receipt of the request, the board's designee shall evaluate the documentation and shall approve the application, request additional documentation, or require that additional course work or continuing professional education be earned. If necessary, the applicant may reapply for the license when the requirements of this section are met.

(c) An applicant who successfully completed all academic and clinical requirements of §741.61(a) - (c) of this title but who has not had the degree officially conferred may be licensed as an intern in order to begin the supervised professional experience but shall submit verification from the program director or designee verifying the applicant has met all academic course work, clinical experience requirements, and completed a thesis or passed a comprehensive examination, if required, and is awaiting the date of next graduation for the degree to be conferred.

(d) An applicant whose master's degree is received at a college or university accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation will receive automatic approval of the course work and clinical experience if the program director or designee verifies that all requirements as outlined in §741.61(a) - (c) of this title have been met and review of the transcript shows that the applicant has successfully completed at least 24 semester credit hours acceptable toward a graduate degree in the area of speech-language pathology.

(e) A Speech-Language Pathology Intern Plan and Agreement of Supervision Form shall be completed and signed by both the applicant and the licensed speech-language pathologist who agrees to assume responsibility for all services provided by the intern in speech-language pathology. The proposed board-approved supervisor must meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors).

(1) Approval from the board office shall be required prior to practice by the intern in speech-language pathology. The Speech-Language Pathology Intern Plan and Agreement of Supervision Form shall be submitted upon:

(A) application for a license;

(B) license renewal;

(C) changes in supervision; and

(D) the addition of other proposed board-approved supervisors.

(2) If more than one licensed speech-language pathologist agrees to supervise the intern in speech-language pathology, each proposed board-approved supervisor must submit a signed Speech-Language Pathology Intern Plan and Agreement of Supervision Form which shall also identify all proposed board-approved supervisors.

(3) If the board-approved supervisor ceases supervision of the intern in speech-language pathology, the intern shall stop practicing immediately. The board shall hold the board-approved supervisor responsible for the practice of the intern in speech-language pathology until the board-approved supervisor notifies the board, in writing, of the change in supervision.

(4) If the intern in speech-language pathology practices without approval from the board office, disciplinary action may be initiated against the intern in speech-language pathology. If the board-approved supervisor had knowledge of this violation, disciplinary action against the board-approved supervisor may also be initiated.

(f) The internship shall:

(1) begin within four years after the academic and clinical experience requirements as required by subsection (a) of this section have been met;

(2) be completed within a maximum period of 48 months once initiated;

(3) be successfully completed after no more than two attempts;

(4) consist of 36 weeks of full-time supervised professional experience (35 hours per week) totaling a minimum of 1,260 hours, or its part-time equivalent, of supervised professional experience in which clinical work has been accomplished in speech-language pathology.

Professional experience of less than 5 hours per week cannot be used to meet the supervised professional experience.

(5) involve primarily clinical activities such as assessment, diagnosis, evaluation, screening, treatment, report writing, family/client consultation, and/or counseling related to the management process of individuals who exhibit communication disabilities;

(6) be divided into three segments with no fewer than 36 clock hours of supervisory activities to include:

(A) six hours of in person observations per segment by the board-approved supervisor(s) of the intern's direct client contact at the worksite in which the intern provides screening, evaluation, assessment, habilitation, and rehabilitation; and

(B) six hours of other monitoring activities per segment with the board-approved supervisor(s) which may include correspondence, review of videotapes, evaluation of written reports, phone conferences with the intern, evaluations by professional colleagues; or

(C) an alternative plan as approved by the board's designee.

(g) An applicant who does not meet the time frames defined in subsection (f)(1) and (2) of this section shall request an extension, in writing, explaining the reason for the request. The request must be signed by both the intern and the board-approved supervisor. Evaluation of the intern's progress of performance from all board-approved supervisors must accompany the request. Intern plans and supervisory evaluations for any completed segments must be submitted. Within 15 working days of receipt of the request, the board's designee shall determine if the internship:

(1) should be revised or extended; and

(2) whether additional course work, continuing professional education hours, or passing the examination referenced in §741.121 of this title (relating to Examination Administration) is required.

(h) An intern who is employed full-time as defined by subsection (f)(3) of this section and wishes to practice at an additional site, shall submit the Intern Plan and Agreement of Supervision form for that site.

(i) During each segment of the internship, each board-approved supervisor shall conduct a formal evaluation of the intern's progress in the development of professional skills. Documentation of this evaluation shall be maintained by both parties for three years or until the speech-language pathology license is granted. A copy of this documentation shall be submitted to the board upon request.

(j) Prior to implementing changes in the internship, approval from the board office is required.

(1) If the intern changes his or her board-approved supervisor, the new proposed supervisor shall submit a current Intern Plan and Agreement of Supervision Form to the board. The intern may not practice until the board approves the Intern Plan and Agreement of Supervision Form. If the intern adds a board-approved supervisor(s), each new proposed supervisor shall submit a current Intern Plan and Agreement of Supervision Form to the board. The intern may not practice under the additional proposed supervisor(s) until the board approves the Intern Plan and Agreement of Supervision Form. If the intern has completed the internship with the previous supervisor, the previous supervisor and intern shall complete the Report of Completed Internship Form and shall submit the report to the board office. The board office shall evaluate the form and inform the intern of the results. The board-approved supervisor determines whether the internship was acceptable.

(2) Each board-approved supervisor who ceases supervising an intern shall submit a Report of Completed Internship Form for the portion of the internship completed under the board-approved supervisor's supervision. This must be submitted within 30 days of the date the supervision ended.

(3) If the intern changes his or her employer but the board-approved supervisor and the number of hours employed per week remain the same, the board-approved supervisor shall submit a signed statement giving the name, address and phone number of the new location. This must be submitted within 30 days of the date the change occurred.

(k) In any professional context the licensee must indicate the licensee's status as a speech-language pathology intern.

(l) If the intern wishes to continue to practice, within 30 days of completion of the 36 weeks of full-time, or its part-time equivalent, of supervised professional experience as defined in subsection (f) of this section, the intern shall apply for either:

(1) a speech-language pathology license under §741.61 of this title if the intern passed the examination referenced in §741.121 of this title; or

(2) a temporary certificate of registration under §741.65 of this title (relating to Requirements for a Temporary Certificate of Registration in Speech-Language Pathology) if the intern has not passed the examination referenced in §741.121 of this title.

(m) If the intern holds a valid license, the intern may continue to practice under supervision for up to 30 days after the board office receives the Report of Completed Internship form.

(n) A licensed intern shall not use "SLP-CFY" or "SLP-CF" as indicators for their credentials. Licensees shall use "Intern SLP" or "SLP Intern" to shorten their professional title.

(o) An applicant applying for an intern in speech-language pathology license shall submit the following to the board:

- (1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;
- (2) the initial license fee;
- (3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;
- (4) if the graduate degree has not been officially conferred, an original or certified copy of transcript(s) and verification from the university attended verifying the applicant successfully completed all requirements for the graduate degree, and is only awaiting the date of next graduation for the degree to be conferred;
- (5) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended that verifies the applicant has met the requirements established in §741.61(b) - (c) or §741.81(b) - (c) of this title;
- (6) an Intern Plan and Agreement of Supervision Form completed by the proposed board-approved supervisor(s) and signed by both the applicant and the proposed board-approved supervisor(s);
- (7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.63 Waiver of Clinical and Examination Requirements for Speech-Language Pathologists

- (a) An applicant for a speech-language pathology license who currently holds the ASHA Certificate of Clinical Competence may ask the board to waive clinical and examination requirements.
- (b) An applicant who seeks a waiver shall submit the following:
 - (1) an original board application form for a speech-language pathology license, including disclosure of the applicant's social security number, completed, signed, and dated within the past 60 days;

- (2) the initial license fee;
- (3) an original or certified copy of a signed letter from ASHA that verifies the applicant currently holds the Certificate of Clinical Competence in the area of speech-language pathology;
- (4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work, which also verifies that the applicant possesses a minimum of a master's degree with a major in speech-language pathology; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency;
- (5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.64 Requirements for an Assistant in Speech-Language Pathology License

(a) An individual shall not practice as an assistant in speech-language pathology without a current license issued by the board. An applicant for an assistant in speech-language pathology license shall meet the requirements in the Act and this section. The applicant for the assistant license shall meet the following requirements:

(1) possess a baccalaureate degree with an emphasis in communicative sciences and disorders;

(2) have acquired the following:

(A) at least 24 semester hours in speech-language pathology and/or audiology with a grade of "C" or above;

(B) and at least 18 semester hours of the 24 hours must be in speech-language pathology;

(C) at least three semester hours in language disorders;

(D) at least three semester hours in speech disorders; and

(E) excludes clinical experience and course work such as special education, deaf education, or sign language; and

(3) have earned no fewer than 25 hours of clinical observation in the area of speech-language pathology and 25 hours of clinical assisting experience in the area of speech-language pathology obtained within an educational institution or in one of its cooperating programs or under the direct supervision at their place of employment.

(b) The baccalaureate degree shall be completed at a college or university which has a program accredited by the American Speech-Language-Hearing Association Council on Academic Accreditation or holds accreditation or candidacy status from a recognized regional accrediting agency.

(1) Original or certified copy of the transcripts showing the conferred degree shall be submitted and reviewed as follows:

(A) only course work earned within the past 10 years with a grade of "C" or above is acceptable;

(B) a quarter hour of academic credit shall be considered as two-thirds of a semester credit hour; and

(C) academic courses, the titles of which are not self-explanatory, shall be substantiated through course descriptions in official school catalogs or bulletins or by other official means.

(2) In the event the course work and clinical experience set out in subsection (a) of this section were earned more than 10 years before the date of application for the assistant license, the applicant shall submit proof of current knowledge of the practice of speech-language pathology to be evaluated by the board's designee. Within 15 working days of receipt, the board's designee shall evaluate the documentation and shall either approve the application, request additional documentation, or require that additional course work or continuing professional education be earned. If necessary, the applicant may reapply for the license when the requirements of this section are met.

(c) An applicant who possesses a baccalaureate degree with a major that is not in communicative sciences and disorders may qualify for the assistant license. The board's designee shall evaluate transcripts on a case-by-case basis to ensure equivalent academic preparation, and shall determine if the applicant satisfactorily completed 24 semester credit hours in communicative sciences or disorders, which may include some leveling hours. Within 15 working days of receipt, the board's designee shall approve the application, request additional documentation, or require that additional course work or continuing professional education be earned. If necessary, the applicant may reapply for the license when the requirements of this section are met.

(d) Degrees and/or course work received at foreign universities shall be acceptable only if such course work and clinical practicum hours may be verified as meeting the requirements of subsection (a) of this section. The applicant must bear all expenses incurred during the procedure. The board's designee shall evaluate the documentation within 15 working days of receipt of all documentation, which shall include an original transcript and an original report from a credential evaluation services agency acceptable to the board.

(e) An applicant applying for an assistant in speech-language pathology license under this section shall submit the following to the board:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) a Supervisory Responsibility Statement Form completed by the licensed supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed board-approved supervisor;

(4) an original or certified copy of the transcript(s) showing the conferred degree of relevant course work which also verifies that the applicant possesses a baccalaureate degree with an emphasis in speech-language pathology and/or audiology;

(5) if not previously submitted, a Clinical Observation and Clinical Experience Form completed by the university program director or designee of the college or university training program verifying the applicant completed the requirements in subsection (a)(3) of this section or §741.84(b)(3) of this title;

(6) for an applicant who did not obtain the hours required in paragraph (5) of this subsection, a Clinical Deficiency Plan Form to obtain the necessary hours lacking;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

(f) An applicant who has not acquired the 25 hours of clinical observation and 25 hours of clinical experience referenced in subsection (a)(3) of this section shall not meet the minimum qualifications for the assistant license. These hours must be obtained through an accredited college or university, or through a Clinical Deficiency Plan. In order to acquire these hours, the applicant shall first obtain the assistant license by submitting the forms, fees, and documentation referenced in §741.112(d) of this title (relating to Required Application Materials) and include the prescribed Clinical Deficiency Plan to acquire the clinical observation and clinical assisting experience hours lacking.

(1) The licensed speech-language pathologist who will provide the applicant with the training to acquire these hours must meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors) and shall submit:

(A) the supervisory responsibility statement form; and

(B) the prescribed Clinical Deficiency Plan.

(2) The board office shall evaluate the documentation and fees submitted to determine if the assistant license shall be issued. Additional information or revisions may be required before approval is granted.

(3) The Clinical Deficiency Plan shall be completed within 60 days of the issue date of the assistant's license or the licensed assistant shall be considered to have voluntarily surrendered the license.

(4) Immediately upon completion of the Clinical Deficiency Plan, the licensed speech-language pathologist identified in the plan shall submit:

(A) a supervision log that verifies the specific times and dates in which the hours were acquired with a brief description of the training conducted during each session;

(B) a rating scale of the licensed assistant's performance; and

(C) a signed statement that the licensed assistant successfully completed the clinical observation and clinical assisting experience under his or her 100% direct, in person supervision. This statement shall specify the number of hours completed and verify completion of the training identified in the Clinical Deficiency Plan.

(5) Board staff shall evaluate the documentation required in paragraph (4) of this subsection and inform the licensed assistant and licensed speech-language pathologist who provided the training if acceptable.

(6) A licensed assistant may continue to practice under 100% in person supervision of the licensed speech-language pathologist who provided the licensed assistant with the training while the board office evaluates the documentation identified in paragraph (4) of this subsection.

(7) In the event another licensed speech-language pathologist shall supervise the licensed assistant after completion of the Clinical Deficiency Plan, a supervisory responsibility statement form shall be submitted to the board office seeking approval for the change in supervision. If the documentation required by paragraph (4) of this subsection has not been received and approved by the board office, approval for the change in supervision shall not be granted.

(g) The applicant and the proposed board-approved supervisor who agrees to assume responsibility for all services provided by the licensed assistant shall complete and sign a Supervisory Responsibility Statement Form. The proposed board-approved supervisor must meet the requirements set out in the Act and §741.44 of this title relating to (Requirements, Duties, and Responsibilities of Supervisors).

(1) Approval from the board office shall be required prior to practice by the licensed assistant. The supervisor responsibility statement shall be submitted upon:

(A) application for an assistant license;

(B) license renewal when there is a change in supervisor;

(C) other changes in supervision; and

(D) the addition of board-approved supervisors.

(2) If more than one licensed speech-language pathologist agrees to supervise the licensed assistant, each licensed speech-language pathology board-approved supervisor shall be identified on the supervisor responsibility statement, and meet the minimum requirement of supervision as referenced in subsection (g)(4) of this section. The licensed assistant shall only provide services for the supervising speech-language pathologist's caseload.

(3) A licensed assistant may renew the license if there is a change in supervision, but may not practice until a new supervisory responsibility statement form is approved.

(4) If the licensed speech-language pathology board-approved supervisor ceases supervision of the licensed assistant, the licensed board-approved supervisor shall notify the board in writing, and shall inform the licensed assistant to stop practicing immediately. The board-approved supervisor is responsible for the practice of the licensed assistant until the board receives written notification that the supervisor has stopped supervising the licensed assistant.

(5) If an individual practices without a license in violation of this chapter, the board may take enforcement action against the individual and may also take enforcement action against the board-approved supervisor.

(h) A licensed speech-language pathology board-approved supervisor shall assign duties and provide appropriate supervision to the licensed assistant.

(1) Initial contacts directly with the client shall be conducted by the supervising speech-language pathologist.

(2) Following the initial contact, the supervising speech-language pathologist shall determine whether the licensed assistant has the competence to perform specific duties before delegating tasks.

(3) Indirect methods of supervision may include audio and/or video tape recording, report review, telephone or electronic communication, or other means of reporting.

(4) The supervising speech-language pathologist shall provide a minimum of two hours per week of supervision, at least one hour of which is in person supervision where the licensed assistant is providing the therapy. This applies whether the licensed assistant's practice is full or part-time.

(5) An exception to paragraph (4) of this subsection may be requested. The supervising speech-language pathologist shall submit the prescribed alternate supervision request plan form for review by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan. The plan shall be for not more than one year's duration.

(6) If the exception referenced in paragraph (5) of this subsection is approved and the reason continues to exist, the licensed supervising speech-language pathologist shall annually resubmit a

request to be evaluated by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan.

(7) Supervisory records shall be maintained for a period of three years by the licensed speech-language pathologist that verify regularly scheduled monitoring, assessment, and evaluation of the licensed assistant's and client's performance. Such documentation may be requested by the board.

(A) A licensed assistant may not conduct an evaluation which includes diagnostic testing and observation, test interpretation, diagnosis, decision making, statement of severity or implication, case selection or case load decisions.

(B) A licensed assistant may conduct assessments which includes data collection, clinical observation and routine test administration if the licensed assistant has been appropriately trained and the assessments are conducted under the direction of the licensed speech-language pathology board-approved supervisor. A licensed assistant may not conduct a test if the test developer has specified that a graduate degreed examiner should conduct the test.

(i) The licensed board-approved supervising speech-language pathologist may delegate specific clinical tasks to a licensed assistant but may not delegate responsibility for services provided to the client. The licensed speech-language pathologist shall ensure that all services comply with this chapter.

(1) The licensed supervising speech-language pathologist need not be present when the licensed assistant is completing the assigned tasks; however, the licensed speech-language pathologist shall document all services provided and the supervision of the licensed assistant.

(2) The licensed supervising speech-language pathologist shall keep job descriptions and performance records of the licensed assistant. Records shall be current and made available to the board within 30 days of the date of the board's request for such records.

(3) The licensed speech-language pathology board-approved supervisor of the licensed assistant shall:

(A) in writing, determine the skills and assigned tasks the licensed assistant is able to carry out within the licensed assistant's scope of practice. This document must be agreed upon by the licensed assistant and the supervising speech-language pathologist;

(B) notify the client or client's legal guardian(s) that services will be provided by a licensed assistant;

(C) develop the client's treatment program in all settings and review them with the licensed assistant who will provide the service; and

(D) maintain responsibility for the services provided by the licensed assistant.

(4) The licensed assistant may execute specific components of the clinical speech, language, and/or hearing program if the licensed speech-language pathology board-approved supervisor determines that the licensed assistant has received the training and has the skill to accomplish that task, and the board-approved supervisor provides sufficient supervision to ensure appropriate completion of the task assigned to the licensed assistant.

(5) Examples of duties which a licensed assistant may be assigned by the speech-language pathology board-approved supervisor who agreed to accept responsibility for the services provided by the licensed assistant, provided appropriate training has been received, are to:

(A) conduct or participate in speech, language, and/or hearing screening;

(B) implement the treatment program or the individual education plan (IEP) designed by the licensed speech-language pathology supervisor;

(C) provide carry-over activities which are the therapeutically designed transfer of a newly acquired communication ability to other contexts and situations;

(D) collect data;

(E) administer routine tests if the test developer does not specify a graduate degreed examiner and the board-approved supervisor has determined the licensed assistant is competent to perform the test;

(F) maintain clinical records;

(G) prepare clinical materials;

(H) participate with the licensed speech-language pathology board-approved supervisors' research projects, staff development, public relations programs, or similar activities as designated and supervised by the licensed speech-language pathologist;

(I) may write lesson plans based on the therapy program developed by the supervising speech-language pathologist. The lesson plans shall be reviewed and approved by the supervising speech-language pathologist; and

(J) must only work with assigned cases of the supervising speech-language pathologist's caseload.

(j) The licensed assistant shall not:

(1) conduct evaluations, even under supervision, since this is a diagnostic and decision making activity;

(2) interpret results of routine tests;

- (3) interpret observations or data into diagnostic statements, clinical management strategies, or procedures;
 - (4) represent speech-language pathology at staff meetings or at an admission, review and dismissal (ARD), except as specified in this section;
 - (5) attend staffing meeting or ARD without the licensed assistant's supervising speech-language pathology board-approved supervisor being present except as specified in this section;
 - (6) design or alter a treatment program or individual education plan (IEP);
 - (7) determine case selection;
 - (8) present written or oral reports of client information, except as provided by this section;
 - (9) refer a client to other professionals or other agencies;
 - (10) use any title which connotes the competency of a licensed speech-language pathologist;
 - (11) practice as an assistant in speech-language pathology without a valid supervisory responsibility statement on file in the board office;
 - (12) perform invasive procedures;
 - (13) screen or diagnose clients for feeding and swallowing disorders;
 - (14) use a checklist or tabulated results of feeding or swallowing evaluations;
 - (15) demonstrate swallowing strategies or precautions to clients, family, or staff;
 - (16) provide client or family counseling;
 - (17) sign any formal document relating to the reimbursement for or the provision of speech-language pathology services without the licensed assistant's board-approved speech-language pathology supervisor's signature; or
 - (18) use "SLP-A" or "STA" as indicators for their credentials. Licensees shall use "Assistant SLP" or "SLP Assistant" to shorten their professional title.
- (k) The licensed, board-approved supervisor of the licensed assistant, prior to the ARD, shall:
- (1) notify the parents of students with speech impairments that services will be provided by a licensed assistant and that the licensed assistant will represent Speech Pathology at the ARD;
 - (2) develop the student's new IEP goals and objectives and review them with the licensed assistant; and

(3) maintain undiminished responsibility for the services provided and the actions of the licensed assistant.

(l) A licensed assistant may represent special education and speech pathology at the ARD meetings with the following stipulations.

(1) The licensed assistant shall have written documentation of approval from the licensed, board-approved speech-language pathologist supervisor.

(2) The licensed assistant shall have three years of experience as a licensed assistant in the school setting.

(3) The licensed assistant may attend, with written approval of the supervising speech-language pathologist, a student's annual review ARD meeting if the meeting involves a student for whom the licensed assistant provides services. If a licensed assistant attends a meeting as provided by this rule, the supervising speech-language pathologist is not required to attend the meeting. A supervising speech-language pathologist must attend an ARD meeting if the purpose of the meeting is to develop a student's initial IEP or if the meeting is to consider the student's dismissal, unless the supervising speech-language pathologist has submitted their recommendation in writing on or before the date of the meeting.

(4) The licensed assistant shall present IEP goals and objectives that have been developed by the supervising speech-language pathologist and reviewed with the parent by the supervising speech-language pathologist.

(5) The licensed assistant shall discontinue participation in the ARD meeting, and contact the supervising speech-language pathologist, when questions or changes arise regarding the IEP document.

(m) In any professional context the licensee must indicate the licensee status as a licensed speech-language pathology assistant.

(n) The board may audit a random sampling of licensed assistants for compliance with this section and §741.44 of this title.

(1) The board shall notify a licensed assistant and licensed speech-language pathology board-approved supervisor by mail that the licensee has been selected for an audit. In the notice, the board will request documentation of compliance with the Act and this chapter.

(2) The licensed assistant and the licensed speech-language pathology board-approved supervisor who agreed to accept responsibility for the services provided by the licensed assistant shall comply with the audit and shall mail the requested proof of compliance to the board.

§741.65 Requirements for a Temporary Certificate of Registration in Speech-Language Pathology

(a) An applicant for a temporary certificate of registration in speech-language pathology shall meet the requirements of the Act and §741.61(a) - (d) of this title (relating to Requirements for a Speech-Language Pathology License).

(b) If issued, this certificate entitles an applicant approved for examination as required by §741.121 of this title (relating to Examination Administration) to practice speech-language pathology under supervision of an approved speech-language pathologist for a period of time ending eight weeks after the next scheduled examination. During each eight week time period, no fewer than four hours of direct in person supervision and four hours of indirect supervising activities shall be completed.

(c) A temporary certificate of registration shall not be renewed.

(d) The proposed board-approved supervisor and applicant shall complete the Temporary Supervisory Form and submit it to the board office. The applicant shall not practice until the application is approved by the board.

(e) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

(2) the temporary certificate of registration fee;

(3) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a master's degree with a major in one of the areas of communicative sciences or disorders; however, an applicant who graduated from a college or university with a program not accredited by the ASHA Council on Academic Accreditation, shall submit an original signed letter from ASHA stating that the Clinical Certification Board accepted the course work and clinical experience;

(4) a Course Work and Clinical Experience Form completed by the university program director or designee of the college or university attended which verifies the applicant has met the requirements in §741.61(b) - (c) of this title;

(5) a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor; however, if the internship was completed out-of-state, the supervisor shall also submit a copy of his or her diploma or transcript showing the master's degree in one of the areas of communicative sciences and disorders had been conferred and a copy of a valid license to practice in that state. If that state did not require licensure, the supervisor shall submit an original letter from ASHA stating that the Certificate of Clinical Competence was held when the applicant completed the internship in addition to proof of a master's degree in communicative sciences and disorders;

- (6) a Temporary Supervisory Form completed by the applicant's proposed board-approved supervisor and signed by both the applicant and the proposed board-approved supervisor;
- (7) an applicant who completed the internship in another state and graduated from a college or university with a program not accredited by ASHA, shall submit an original, signed letter from ASHA stating that the Clinical Certification Board accepted the course work, clinical practicum, and the clinical fellowship year;
- (8) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (9) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.66 Licensing in Speech-Language Pathology for Military Service Members, Military Veterans, and Military Spouses

(a) This section sets out the speech-language pathology licensing process and procedures for military service members, military veterans, and military spouses required under Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses) and Texas Occupations Code, §401.315 (relating to Licensing for Military Spouses as speech-language pathologists or audiologists). For purposes of this section:

- (1) Military service member means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.
- (2) Military spouse means a person who is married to a military service member who is currently on active duty.
- (3) Military veteran means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.
- (b) An applicant shall provide to the board documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.
- (c) An applicant shall provide to the board acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensure

requirements of that jurisdiction are substantially equivalent to the licensure requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by Texas Occupations Code, Chapter 53.

(f) The board shall issue, as soon as practicable, a license to a verified military spouse who has completed and submitted the application and required fee(s) to the board and meets the following requirements:

(1) for a military spouse applying for a license as a speech-language pathologist:

(A) was licensed in good standing as a speech-language pathologist in another state as of the date of the application; and

(B) holds a master's degree in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is:

(i) approved by the board; and

(ii) recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001, *et seq.*);

(2) for a military spouse applying for any other category of speech-language pathology license, holds a current license in good standing issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license for which the military spouse is applying; and

(3) for any applicant under paragraph (1) or (2) of this subsection:

(A) has not been the subject of a disciplinary action in any jurisdiction in which the applicant is or has been licensed; and

(B) has no criminal history that would preclude issuance of the license pursuant to Texas Occupations Code, Chapter 53.

(g) If the board issues an initial license to an applicant who is a verified military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has

met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide to the board proof of completion of those requirements at the time of the first renewal of the license. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first renewal of the license.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as a criminal background or non-compliance with a board order.

(i) In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite for a military spouse to obtain a license under subsection (f) of this section after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

SUBCHAPTER F REQUIREMENTS FOR LICENSURE OF AUDIOLOGISTS

§741.81 Requirements for an Audiology License

(a) An applicant for the audiology license shall meet the requirements set out in the Act and this section.

(b) The doctoral degree in audiology or related hearing sciences shall be completed at a college or university that has a program accredited by a national accrediting organization that is approved by the board and recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C., §1001 et seq.).

(c) An applicant who graduated from a college or university program not accredited by a national accrediting organization that is approved by the board and recognized by the U.S. Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. Section 1001 et seq.) shall have the Clinical Certification Board of ASHA evaluate the course work to determine whether the applicant qualifies for the Certificate of Clinical Competence. The applicant shall bear all expenses incurred during the procedure.

(d) An applicant shall pass the examination as referenced by §741.121 of this title (relating to Examination Administration) within the past 10 years from the date of the application.

(e) An applicant who previously held the ASHA Certificate of Clinical Competence or the ABA certification may have the certificate reinstated and apply for licensure under §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists).

(f) The applicant shall submit the following materials to the board to complete the application process:

- (1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;
 - (2) the initial application fee;
 - (3) an original or certified copy of the transcript(s) showing the conferred doctoral degree; or if the degree was not earned at an institution as described in subsection (b) of this section, official documentation from the ASHA Council on Academic Accreditation that the conferred doctoral degree is adequate for ASHA Certification or from the ABA that the conferred doctoral degree is adequate for ABA Certification;
 - (4) if the applicant currently holds an intern in audiology license, a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor;
 - (5) a Praxis Exam Score Report showing the applicant passed the examination required in §741.121 of this title (relating to Examination Administration) within the time period established in subsection (d) of this section;
 - (6) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
 - (7) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).
- (g) An applicant for dual licenses in audiology and speech-language pathology under §741.91 of this title (relating to Requirements for Dual Licenses in Speech-Language Pathology and Audiology) shall submit separate documentation and fees listed in subsection (f) of this section and in §741.61(h)(1) - (7) of this title.
- (h) An applicant who currently holds a license in speech-language pathology and wishes to obtain dual licenses by adding a license in audiology shall submit documentation listed in subsection (f) of this section and §741.61(i) of this title.

§741.82 Requirements for an Intern in Audiology License

- (a) An applicant for the intern in audiology license shall meet the requirements set out in the Act and §741.81(a) - (c) of this title (relating to Requirements for an Audiology License).
- (b) The applicant shall submit the board prescribed form signed by the university program director or designee verifying the applicant is enrolled in a professionally recognized accredited doctoral program as approved by the board.

(c) The board prescribed Intern Plan and Agreement of Supervision for an Intern in Audiology Form shall be completed and signed by both the applicant and the licensed audiologist who agrees to assume responsibility for all services provided by the intern in audiology. The proposed board-approved supervisor shall hold a valid Texas license in audiology and possess a master's degree or higher with a major in one of the areas of communicative sciences and disorders and meet the requirements set out in the Act and §741.44 of this title (relating to Requirements, Duties, and Responsibilities of Supervisors).

(1) Written approval from the board office shall be required prior to practice by the intern in audiology. The Intern Plan and Agreement of Supervision of An Intern in Audiology Form shall be submitted upon:

(A) application for a license;

(B) license renewal;

(C) changes in supervision; and/or

(D) addition of a proposed board-approved supervisor.

(2) If more than one licensed audiologist agrees to supervise the intern in audiology, the primary board-approved supervisor shall be identified and separate forms submitted by each board-approved supervisor.

(3) If the board-approved supervisor ceases supervision of the intern, the intern in audiology shall stop practicing immediately until a new supervisor is approved by the board office.

(4) If an individual practices without a license in violation of this chapter, the board may take enforcement action against the individual and may also take enforcement action against the board-approved supervisor.

(d) The internship shall:

(1) consist of 1,600 hours of supervised clinical work as defined in paragraph (2) of this subsection. The internship shall begin after completion of all academic course work; and

(2) involve primarily clinical activities such as assessment, diagnosis, evaluation, screening, treatment, report writing, family/client consultation, and/or counseling related to the management process of individuals.

(e) Before implementing any changes in the supervision of the internship, the intern must receive the board's written approval.

(1) If the intern in audiology changes his or her board-approved supervisor or adds board-approved supervisor(s), the new proposed supervisor shall submit a current Intern Plan and Agreement of Supervision of An Intern in Audiology Form to the board. The intern in audiology

may not resume practice until the board approves the Intern Plan and Agreement of Supervision Form. When the intern has completed the internship with the previous board-approved supervisor, the previous board-approved supervisor and intern shall complete a Report of Completed Internship of An Intern in Audiology Form and shall submit the report to the board office. The board-approved supervisor determines whether the internship meets the board's requirements. The board office shall evaluate the form and inform the intern in audiology of the results.

(2) A primary board-approved supervisor who ceases supervising an intern in audiology shall submit a Report of Completed Internship of An Intern in Audiology Form for the portion of the internship completed under his or her supervision. This must be submitted within 30 days of the date the supervision ended.

(3) A secondary board-approved supervisor who ceases supervising an intern in audiology shall submit written documentation of the intern in audiology's performance under their supervision. This must be submitted within 30 days of the date the supervision ended.

(4) If the intern in audiology changes his or her employer but the board-approved supervisor and the number of hours employed per week remain the same, the board-approved supervisor shall submit a signed statement giving the name, address and phone number of the new location. This must be submitted within 30 days of the date the change occurred.

(5) In any professional context the licensee must indicate the licensee's status as an intern in audiology.

(f) The intern in audiology may continue to practice under supervision if he or she holds a valid intern in audiology license while awaiting the processing of the audiology license. If the intern in audiology changes a board-approved supervisor, the new board-approved supervisor shall first submit the Intern Plan and Agreement of Supervision of An Intern in Audiology Form and receive board approval before the intern in audiology may resume practice.

(g) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number completed, signed and dated within the past 60 days;

(2) the initial application fee;

(3) a Course work and Clinical Experience Form for Audiology Intern signed by the university program director or designee verifying the applicant is enrolled in a professionally recognized accredited doctoral program as approved by the board, and has completed all required academic and clinical course work;

(4) an original or certified copy of the most current transcript;

- (5) an Intern Plan and Agreement of Supervision Form completed by the proposed board-approved supervisor and signed by both the applicant and the proposed board-approved supervisor;
- (6) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (7) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.83 Waiver of Clinical and Examination Requirements for Audiologists

(a) An applicant for a license from the board who currently holds either the ASHA Certificate of Clinical Competence or the ABA Board Certification in audiology may submit official documentation from ASHA or ABA as evidence that the applicant meets the clinical experience and examination requirements as referenced in §741.81 of this title (relating to Requirements for an Audiology License).

(b) An applicant under this section who holds a current ASHA Certificate of Clinical Competence or who is currently ABA Board Certified and is applying for licensure under §741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists) shall submit the following:

- (1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;
- (2) the initial license fee;
- (3) an original or certified copy of a signed letter from ASHA or the ABA which verifies the applicant holds a current Certificate of Clinical Competence or ABA Board Certification in audiology;
- (4) an original or certified copy of the transcript(s) showing the conferred degree of all relevant course work which also verifies that the applicant possesses a minimum of a doctoral degree in audiology or related hearing science; however, an applicant whose transcript is in a language other than English shall submit an original evaluation form from an approved credentialing agency;
- (5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of

Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.84 Requirements for an Assistant in Audiology License

(a) An individual shall not practice as an assistant in audiology without a current license issued by the board. An applicant for an assistant in audiology license shall meet the requirements set out in the Act and this section.

(b) An assistant in audiology shall meet the following requirements:

(1) reach the minimum age of 18 and possess a high school diploma or equivalent;

(2) complete the approved 20-hour certification course from the Council for Accreditation of Occupational Hearing Conservation (CAOHC) and earn a passing score on the examination; and

(3) submit the board-prescribed Supervisory Responsibility Statement for an Assistant in Audiology form, that shall include:

(A) an agreement signed by both the licensed proposed board-approved supervisor (who must meet the requirements set out in the Act and §741.44 of this title) and the applicant, to enter into a supervisory relationship, in which the proposed board-approved supervisor agrees to assume responsibility for the applicant's activities, and the applicant agrees to perform only those activities assigned by the board-approved supervisor that are not prohibited under this section; and

(B) a plan for a minimum of 25 hours of job-specific competency-based training to be carried out by the board-approved supervisor. Until this training is complete, the licensed assistant in audiology may practice only under direct supervision by the board-approved supervisor.

(c) Upon satisfactory completion of job-specific competency-based training, the board-approved supervisor shall submit the Report of Completed Training for an Assistant in Audiology Form on behalf of the licensed assistant in audiology. After the board approves the report, the licensed assistant may practice only in compliance with the supervision requirements under subsection (e) of this section.

(d) If more than one licensed audiologist agrees to supervise the licensed assistant in audiology, each proposed board-approved supervisor must submit a separate Supervisory Responsibility Statement for an Assistant in Audiology Form.

(e) A board-approved supervising audiologist shall be on-site at the licensed assistant in audiology's employment location for at least ten hours per week, and provide at least one hour of direct supervision, at the location where the assistant is employed. This requirement applies whether the licensed assistant in audiology is employed full- or part-time.

(f) The board-approved supervisor shall maintain supervisory records for three years. The records must verify regularly scheduled monitoring, assessment, and evaluation of the licensed assistant in audiology's job performance. The board may request this documentation at any time.

(g) If the board-approved supervisor(s) cease supervision of the licensed assistant in audiology, the licensed assistant in audiology shall stop practicing immediately. The licensed assistant in audiology may not practice until a new a Supervisory Responsibility Statement for an Assistant in Audiology Form has been submitted and approved by the board.

(h) The board-approved supervisor shall assign duties and provide appropriate supervision to the licensed assistant in audiology.

(1) All diagnostic contacts shall be conducted by the board-approved supervisor.

(2) Following the initial diagnostic contact, the board-approved supervising audiologist shall determine whether the licensed assistant in audiology is competent to perform specific non-diagnostic and non-prohibited duties before delegating tasks (as referenced in subsection (i)(4) of this section).

(i) The licensed board-approved supervising audiologist may delegate specific clinical tasks to a licensed assistant but may not delegate responsibility for services provided to the client. The board-approved supervisor shall ensure that all services comply with this chapter.

(1) The board-approved supervisor need not be in direct supervision when the licensed assistant is completing the assigned tasks; however, the board-approved supervisor shall document all services provided and the supervision of the licensed assistant.

(2) The board-approved supervisor shall maintain job descriptions and performance records relating to the practice of the licensed assistant. The board-approved supervisor shall keep records current and shall provide the records to the board within 30 days of the date of the board's request for such records.

(3) The licensed assistant may execute specific components of the clinical hearing program if the board-approved supervisor determines that the licensed assistant has received the training and has the skill to accomplish that task, and the board-approved supervisor provides sufficient supervision to ensure appropriate completion of the task assigned to the licensed assistant.

(4) Examples of duties that the board-approved supervisor may assign to a licensed assistant who has received appropriate training include the following:

(A) conducting or participating in hearing screening including screening otoscopy, tympanometry, otoacoustic emissions procedures and pure tone air conduction procedures, but may not diagnose hearing loss or disorders of the auditory system, or make statements of severity or implication;

(B) maintaining clinical records;

- (C) preparing clinical materials;
- (D) participating with the board-approved supervisor in research projects, staff development, public relations programs, or similar activities as designated and supervised by the board-approved supervisor;
- (E) maintaining equipment by conducting biologic and electroacoustic calibration of audiometric equipment, perform preventative maintenance checks and safety checks of equipment;
- (F) explaining the proper care of hearing instruments and assistive listening devices to patients;
- (G) maintaining hearing instruments including cleaning, replacing ear mold tubing, minor hearing instrument repairs, determining need for repair, and performing biologic and electroacoustic checks of hearing instruments;
- (H) providing case history and/or self-assessment forms and clarifying questions on the forms to patients as needed;
- (I) assisting the audiologist with play audiometry, visual reinforcement audiometry, and tasks such as picture-pointing speech audiometry;
- (J) assisting the audiologist in the evaluation of difficult-to-test patients;
- (K) assisting the audiologist with technical tasks for diagnostic evaluation such as preparing test rooms, attaching electrodes, and preparing patients prior to procedures;
- (L) conducting basic record keeping and prepare paperwork for signature by the audiologist;
- (M) coordinating ear mold and hearing instrument records or repairs and other orders;
- (N) attaching hearing aids to computers and using software to verify internal electroacoustic settings;
- (O) performing other non-diagnostic duties not prohibited in paragraph (5) of this subsection, for which the assistant has been trained and demonstrates appropriate skills, as assigned by the board-approved supervising audiologist.

(5) The licensed assistant shall not:

- (A) conduct any audiological procedure that requires decision-making or leads to a diagnosis, even under direct supervision;
- (B) interpret results of procedures and evaluations, except for screening tests;
- (C) make diagnostic statements, or propose or develop clinical management strategies;

(D) make ear impressions;

(E) cause any substance to enter the ear canal or place any instrument or object in the ear canal for the purpose of removing cerumen or debris;

(F) make any changes to the internal settings of a hearing instrument manually or using computer software;

(G) represent audiology at staff meetings or on an admission, review and dismissal (ARD) committee;

(H) attend staffing meetings or ARD committee meetings without the board-approved supervisor being present;

(I) design a treatment program;

(J) determine case selection;

(K) present written or oral reports of client information, except to his or her board-approved supervisor;

(L) refer a client to other professionals or other agencies;

(M) use any title which connotes the competency of a licensed audiologist; or

(N) practice as a licensed assistant in audiology without a valid Supervisory Responsibility Statement for an Audiology Assistant Form on file in the board office.

(j) In any professional context the licensee must indicate the licensee's status as a licensed audiology assistant.

(k) A licensed audiology assistant may not fit or dispense hearing instruments; however, a licensed audiology assistant who also holds a license under Occupations Code, Chapter 402 may engage in activities that are authorized under Occupations Code, Chapter 402.

(l) The board may audit a random sampling of licensed audiology assistants for compliance with this section and §741.44 of this title.

(1) The board shall notify a licensed assistant in audiology and board-approved supervisor by mail that he or she has been selected for an audit. In the notice, the board will request documentation of compliance with the Act and this chapter.

(2) The licensed assistant in audiology and the board-approved supervisor who agreed to accept responsibility for the services provided by the licensed assistant in audiology shall comply with the audit and shall mail the requested proof of compliance to the board.

(m) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number completed, signed, and dated within the past 60 days;

(2) the initial license fee;

(3) a Supervisory Responsibility Statement Form completed by the licensed proposed board-approved supervisor who agrees to accept responsibility for the services provided by the assistant and signed by both the applicant and the proposed board-approved supervisor;

(4) an original or certified copy of the applicant's birth certificate indicating that the applicant is 18 years of age or older;

(5) a high school diploma or equivalent;

(6) an original or certified copy of the CAOHC certificate indicating that the applicant has completed the required CAOHC training and passed the required examination;

(7) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and

(8) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.85 Requirements for a Temporary Certificate of Registration in Audiology

(a) An applicant for a temporary certificate of registration in audiology must meet the requirements of the Act and §741.81(a) - (d) of this title (relating to Requirements for an Audiology License).

(b) If issued, this certificate entitles an applicant approved for examination as required by §741.121 of this title (relating to Examination Administration) to practice audiology under an approved supervisor for a period of time ending eight weeks after the next scheduled examination.

(c) A temporary certificate of registration shall not be renewed.

(d) The applicant shall submit the following materials to the board to complete the application process:

(1) an original board application form including disclosure of the applicant's social security number; completed, signed, and dated within the past 60 days;

- (2) the initial application fee;
- (3) an original or certified copy of the transcript(s) showing the conferred doctoral degree; or if the degree was not earned at an institution as described in §741.81(b), official documentation from the ASHA Council on Academic Accreditation that the conferred doctoral degree is adequate for ASHA Certification or from the ABA that the conferred doctoral degree is adequate for ABA Certification;
- (4) if the applicant currently holds an intern in audiology license, a Report of Completed Internship Form completed by the applicant's board-approved supervisor and signed by both the applicant and the board-approved supervisor;
- (5) proof of completion of the Jurisprudence Examination required in §741.122 of this title; and
- (6) the state-approved fingerprint form showing that the applicant has submitted to the Department of Public Safety a completed legible set of fingerprints on a form prescribed by the board for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation in accordance with §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.86 Licensing in Audiology for Military Service Members, Military Veterans, and Military Spouses

(a) This section sets out the audiology licensing process and procedures for military service members, military veterans, and military spouses required under Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses) and Texas Occupations Code, §401.315 (relating to Licensing for Military Spouses as speech-language pathologists or audiologists). For purposes of this section.

- (1) Military service member means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.
- (2) Military spouse means a person who is married to a military service member who is currently on active duty.
- (3) Military veteran means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.
- (b) An applicant shall provide to the board documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) An applicant shall provide to the board acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensure requirements of that jurisdiction are substantially equivalent to the licensure requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by Texas Occupations Code, Chapter 53.

(f) The board shall issue, as soon as practicable, a license to a verified military spouse who has completed and submitted the application and required fee(s) to the board and meets the following requirements:

(1) for a military spouse applying for a license as an audiologist:

(A) was licensed in good standing as an audiologist in another state as of the date of the application; and

(B) holds a master's degree in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is:

(i) approved by the board; and

(ii) recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001 *et seq.*);

(2) for a military spouse applying for any other category of audiology license, holds a current license in good standing issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license for which the military spouse is applying; and

(3) for any applicant under paragraph (1) or (2) of this subsection:

(A) has not been the subject of a disciplinary action in any jurisdiction in which the applicant is or has been licensed; and

(B) has no criminal history that would preclude issuance of the license pursuant to Texas Occupations Code, Chapter 53.

(g) If the board issues an initial license to an applicant who is a verified military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide to the board proof of completion of those requirements at the time of the first renewal of the license. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first renewal of the license.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(i) In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite for a military spouse to obtain a license under subsection (f) of this section after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

SUBCHAPTER G REQUIREMENTS FOR DUAL LICENSURE AS A SPEECH-LANGUAGE PATHOLOGIST AND AN AUDIOLOGIST

§741.91 Requirements for Dual Licenses in Speech-Language Pathology and Audiology

An applicant for dual licenses in speech-language pathology and in audiology as referenced in the Act shall meet the requirements set out in:

(1) Section 741.63 of this title (relating to Waiver of Clinical and Examination Requirements for Speech-Language Pathologists) and §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists); and

(2) Section 741.61 of this title (relating to Requirements for a Speech-Language Pathology License) and §741.81 of this title (relating to Requirements for an Audiology License).

SUBCHAPTER H FITTING AND DISPENSING OF HEARING INSTRUMENTS

§741.101 Registration of Audiologists and Interns in Audiology to Fit and Dispense Hearing Instruments

(a) The audiology license constitutes registration to fit and dispense hearing instruments.

(b) The audiology intern license and the temporary audiology certificate constitute registration to fit and dispense hearing instruments under the supervision of a licensed audiologist approved by the board office to supervise the internship.

§741.102 General Practice Requirements of Audiologists and Interns in Audiology who Fit and Dispense Hearing Instruments

In accordance with the Act, a licensed audiologist or licensed intern in audiology registered to fit and dispense hearing instruments shall:

(1) adhere to the federal Food and Drug Administration regulations in accordance with 21 Code of Federal Regulations, §801.420 and §801.421;

(2) insure that all equipment used by the licensee within his or her scope of practice shall be calibrated to insure compliance with the American National Standards Institute (ANSI), S3.6, 1989, Specification for Audiometers, or S3.6, 1996, Specification for Audiometers;

(3) receive a written statement before selling a hearing instrument that is signed by a licensed physician preferably one who specializes in diseases of the ear and states that the client's hearing loss has been medically evaluated during the preceding six-month period and that the client may be a candidate for a hearing instrument. If the client is age 18 or over, the registered audiologist or intern in audiology may inform the client that the medical evaluation requirement may be waived as long as the registered audiologist or intern in audiology:

(A) informs the client that the exercise of the waiver is not in the client's best health interest;

(B) does not encourage the client to waive the medical evaluation; and

(C) gives the client an opportunity to sign this statement: "I have been advised by (the name of the individual dispensing the hearing instrument) that the Food and Drug Administration has determined that my best health interest would be served if I had a medical evaluation by a licensed physician (preferably a physician who specializes in diseases of the ear) before purchasing a hearing instrument. I do not wish medical evaluation before purchasing a hearing instrument;" and

(4) verify appropriate fit of the hearing instrument(s), which may include real ear measures, functional gain measures, or other professionally accepted measures.

§741.103 Requirements of Audiologists and Interns in Audiology Conducting Audiometric Testing for the Purpose of Fitting and Dispensing Hearing Instruments

In accordance with the Act, a licensed audiologist or licensed intern in audiology who fits and dispenses hearing instruments, shall comply with this section when testing hearing for the purpose of determining the need for amplification and the verification of the appropriate fit of hearing instrument(s).

(1) Licensees must adhere to the most current American National Standards Institute (ANSI) octave band criteria for permissible ambient noise levels during audiometric testing.

(2) This requirement is best met when a stationary acoustical enclosure is utilized.

(3) A stationary acoustical enclosure is any fixed enclosed space in which an individual is located for the purpose of testing hearing to threshold. A stationary acoustical enclosure may also be known as an audiometric or hearing test booth, room, suite, area, or space.

(4) Procedures referenced in the Act, §401.401, should be followed when testing outside of a stationary acoustical enclosure.

(A) Hearing testing that occurs in an area that does not meet the standard of a stationary acoustical enclosure for the purpose of determining the need for amplification is not considered a diagnostic or threshold measurement.

(B) In the event amplification is fit and verification measures cannot be completed in a stationary acoustical enclosure, instrumentation that is minimally affected by ambient noise including but not limited to, real ear measures, shall be utilized to assure the appropriate fit of the amplification.

§741.104 Joint Rule Regarding the Sale of Hearing Instruments

(a) This section constitutes the rule required by the Act to be adopted jointly with the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments. The requirements of this section shall be repealed or amended only through consultation with, and mutual action by, the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

(b) Guidelines for a 30 consecutive day trial period.

(1) All clients shall be informed of a 30 consecutive day trial period by written contract for services. All charges associated with such trial period shall be included in this written contract for services, which shall include the name, address, and telephone number of the State Board of Examiners for Speech-Language Pathology and Audiology.

(2) Any client purchasing one or more hearing instruments shall be entitled to a refund of the purchase price advanced by the client for the hearing instrument(s), less the agreed-upon amount associated with the trial period, upon return of the instrument(s), in good condition, to the licensed audiologist or licensed intern in audiology within the trial period ending 30 consecutive days from the date of delivery. Should the order be canceled by the client prior to the delivery of the hearing instrument(s), the licensed audiologist or licensed intern in audiology may retain the agreed-upon charges and fees as specified in the written contract for services. The client shall receive the refund due no later than the 30th day after the date on which the client cancels the order or returns the hearing instrument(s), in good condition, to the licensed audiologist or licensed intern in audiology.

(3) Should the hearing instrument(s) have to be returned to the manufacturer for repair or remake during the trial period, the 30 consecutive day trial period begins anew. The trial period begins on the day the client reclaims the repaired/remade hearing instrument(s). The expiration date of the new 30 consecutive day trial period shall be made available to the client in writing, through

an amendment to the original written contract. The amendment shall be signed by both the licensed audiologist or licensed intern in audiology and the client.

(4) On delivery of a new replacement hearing instrument(s) during the trial period, the serial number of the new instrument(s), the delivery date of the hearing instrument(s), and the date of the expiration of the 30 consecutive trial period must be stated in writing.

(5) If the date of the expiration of the 30 consecutive day trial period falls on a holiday, weekend, or a day the business is not open, the expiration date shall be the first day the business reopens.

(c) Upon the sale of any hearing instrument(s) or change of model or serial number of the hearing instrument(s), the owner shall ensure that each client receives a written contract that contains:

(1) the date of sale;

(2) the make, model, and serial number of the hearing instrument(s);

(3) the name, address, and telephone number of the principal place of business of the license holder who dispensed the hearing instrument;

(4) a statement that the hearing instrument is new, used, or reconditioned;

(5) the length of time and other terms of the guarantee and by whom the hearing instrument is guaranteed;

(6) a copy of the written forms (relating to waiver forms);

(7) a statement on or attached to the written contract for services, in no smaller than 10-point bold type, as follows: "The client has been advised that any examination or representation made by a licensed audiologist or licensed intern in audiology in connection with the fitting and selling of the hearing instrument(s) is not an examination, diagnosis or prescription by a person duly licensed and qualified as a physician or surgeon authorized to practice medicine in the State of Texas and, therefore, must not be regarded as medical opinion or advice;"

(8) a statement on the face of the written contract for services, in no smaller than 10-point bold type, as follows: "If you have a complaint against a licensed audiologist or intern in audiology, you may contact the State Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 149347, Austin, Texas 78714-9347, telephone 1-800-942-5540;"

(9) the printed name, license type, signature and license number of the licensed audiologist or licensed intern in audiology who dispensed the hearing instrument;

(10) the board-approved supervisor's name, license type, and license number, if applicable;

(11) a recommendation for a follow-up appointment within 30 days after the hearing instrument fitting;

(12) the expiration date of the 30 consecutive day trial period under subsection (b) of this section; and

(13) the dollar amount charged for the hearing instrument and the dollar amount charged for the return or restocking fee, if applicable.

(d) Record keeping. The owner of the dispensing practice shall ensure that records are maintained on every client who receives services in connection with the fitting and dispensing of hearing instruments. Such records shall be preserved for at least five years after the date of the last visit. All of the business's records and contracts are solely the property of the person who owns the business. Client access to records is governed by the Health Insurance Portability and Accountability Act (HIPAA). The records must be available for the board's inspection and shall include, but not be limited to, the following:

(1) pertinent case history;

(2) source of referral and appropriate documents;

(3) medical evaluation or waiver of evaluation;

(4) copies of written contracts for services and receipts executed in connection with the fitting and dispensing of each hearing instrument provided;

(5) a complete record of hearing tests, and services provided; and

(6) all correspondence specifically related to services provided to the client or the hearing instrument(s) fitted and dispensed to the client.

(e) The written contract and trial period information provided to a client in accordance with this section, orally and in writing, shall be in plain language designed to be easily understood by the average consumer. **SUBCHAPTER I APPLICATION PROCEDURES**

§741.111 Application Process

(a) An applicant shall submit required information and documentation of credentials on official board forms.

(b) The application shall not be considered as officially submitted without receipt of all forms and documentation required by §741.112 of this title (relating to Required Application Materials) and the application and license fee as referenced in the Act and defined in §741.181(a)(1) of this title (relating to Schedule of Fees).

(c) The board office shall notify the applicant within the time periods established in §741.182 of this title (relating to Time Periods For Processing Applications and Renewals) whether or not:

(1) the request for the license is approved; or

(2) additional documentation is required.

(d) If additional documentation is required, the application for the license shall remain open no longer than one year following the date the board office received the application.

(e) If the additional documentation requested is not received before the one year referenced in subsection (d) of this section, the request for the license shall be deleted and the fee forfeited.

§741.112 Required Application Materials

(a) Applicants applying for speech-language pathology licenses shall submit documentation as required in subchapter E of this chapter.

(b) Applicants applying for audiology licenses shall submit documentation as required in Subchapter F of this chapter. **SUBCHAPTER J LICENSURE EXAMINATIONS**

§741.121 Examination Administration

(a) The examination required by the Act shall be the examination administered by the Educational Testing Service.

(b) An applicant shall have a passing score.

§741.122 Jurisprudence Examination

(a) The department shall develop and administer a jurisprudence examination to determine an applicant's knowledge of the Act, this chapter, and any other applicable laws of this state affecting the practice of speech-language pathology or audiology.

(b) The examination shall be administered in a web-based format through an examination contract, which specifies that applicants for examination must be able to:

(1) pay the examination fee online by credit card; and

(2) receive their results electronically immediately upon completion of the examination.

(c) The department shall revise the jurisprudence examination as needed.

(d) After December 31, 2009, all applicants for licensure shall submit proof of successful completion of the jurisprudence examination at the time of application. The jurisprudence

examination must be completed no more than six months prior to the date of licensure application.

(e) For all licensees renewing after December 31, 2009, the jurisprudence examination shall be completed in order to renew the license. Licensees shall be required to complete the jurisprudence examination for only one renewal period. The jurisprudence examination shall be completed no more than six months prior to the date of licensure renewal.

SUBCHAPTER K ISSUANCE OF LICENSE

§741.141 Issuance of License

(a) Except as provided by subsections (b) and (c) of this section, the board shall issue an initial license to an applicant for a license after the fee, forms, and other documentation have been received and approved by the board or board staff. A license will be issued for a two-year prorated term, as determined by the board, expiring in the licensee's birth month. The expiration date shall be determined as follows.

(1) An applicant approved for license within three months of the applicant's birth month shall be issued a license to expire on the last day of the birth month that is two years past the applicant's next birth month.

(2) An applicant approved for less than 12 months from the applicant's next birthday, but more than three months from the applicant's next birthday, shall be issued a license to expire upon the last day of the applicant's next birth month of the following year.

(b) The board shall issue an initial license to an applicant for an intern in speech-language pathology or an intern in audiology license after the fee, forms, and other documentation have been received and approved by the board or board staff.

(c) The board shall issue a temporary certificate of registration in speech-language pathology to an applicant after the fee, forms, and other documentation have been received and approved by the board or board staff. The registration shall expire eight weeks after the next scheduled examination as required by §741.121 of this title (relating to Examination Administration). This certificate is non-renewable and there is no allowed grace period after expiration of the certificate.

(d) Licenses issued under subsections (a) - (b) of this section may be renewed as required by §741.161 of this title (relating to Renewal Procedures).

(e) A license or certificate issued by the board remains the property of the board.

(f) The board shall issue a duplicate license or certificate, upon written request and payment of the duplicate fee.

(g) The board is not responsible for lost, misdirected, or undelivered correspondence, including forms and fees, if sent to the address last reported to the board.

§741.142 Criminal History Record Information Requirement for License Issuance

- (a) An applicant for a license shall submit a completed legible set of fingerprints on a form prescribed by the board, to the board or the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.
- (b) A person who does not comply with the requirements in subsection (a) of this section shall not be issued a license by the board.
- (c) A criminal history check of each applicant for a license shall be conducted by the board using information:
 - (1) provided by the individual seeking licensure; and
 - (2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Government Code, Chapter 411.
- (d) On the board's behalf, the Department of State Health Services may:
 - (1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and
 - (2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

SUBCHAPTER L LICENSE RENEWAL AND CONTINUING PROFESSIONAL EDUCATION

§741.161 Renewal Procedures

- (a) The Act provides for the renewal of a license. A license issued under §741.141(a) - (b) of this title (relating to Issuance of License) is subject to renewal upon expiration if a licensee wishes to practice under the Act and this chapter.
 - (1) A licensee may renew by mailing to the board office the renewal form, fee, and all required documents.
 - (2) A licensee may choose to renew online. The license is not considered renewed until all required documents have been received in the board office.
- (b) A license or registration issued under §741.141(c) of this title cannot be renewed.
- (c) The board office shall mail notice of expiration to each licensee approximately 45 days prior to the expiration date of the license. The board is not responsible for lost, misdirected, or undelivered notices of expiration if sent to the address last reported to the board.

(d) A licensee shall have acquired approved continuing education hours as defined in §741.162 of this title (relating to Requirements for Continuing Professional Education) in order to renew a license. Any continuing education hours earned before the original effective date of the license being renewed are not acceptable.

(e) A licensee or registrant is responsible for submitting the required fee, forms, and other documentation prior to the expiration date of the license.

(f) A licensee is required to provide current address, telephone number, and employment information. Corrections may be made on the renewal form or by submitting the current information in writing. A request to change the name currently on record must be submitted in writing with a copy of a divorce decree, marriage certificate, legal name change document, or social security card showing the new name.

(g) The board office shall not consider a license to be renewed until the following has been received and found acceptable:

(1) completed, dated, and signed renewal form, including acknowledgment of having earned the required continuing professional education hours;

(2) license renewal fee; and

(3) continuing education audit documentation, if selected for continuing education audit.

(4) If the licensee chooses to use the online renewal process, the renewal form and renewal fee, as detailed in paragraphs (1) and (2) of this subsection, will be accepted automatically. The license will be considered renewed when the online renewal is processed in the board office and board staff has determined that all documentation has been provided. If additional documentation is required, such as documentation for an audit as defined in subsection (o) of this section, that documentation shall be emailed, faxed, or mailed to the board office. Although the license may complete the renewal process online, the board office shall not consider the license renewed until the additional documentation has been received and accepted by the board office.

(h) An intern shall submit the following for license renewal:

(1) license renewal fee;

(2) evaluation of the intern's progress or performance from all board-approved supervisors must accompany the request. Intern plans and supervisory evaluations for completed segments must be submitted; and

(3) an Intern Plan and Agreement of Supervision Form for the intern's upcoming experience unless the intern is currently not practicing. In that event, the intern shall submit a signed statement explaining the reason for not practicing.

(i) An assistant shall submit the following for license renewal:

(1) the items listed in subsection (g) of this section; and

(2) A Supervisory Responsibility Statement Form from each board-approved supervisor providing the supervision unless the assistant is currently not practicing or the board-approved supervisor(s) has not changed.

(j) An individual who meets the requirements set out in the Act and wishes to renew the expired license shall submit his or her request, in writing, with the following:

(1) an original letter from the licensing board where he or she currently holds a valid license verifying:

(A) the professional area in which the license was issued;

(B) the date of issue;

(C) the expiration date of the license; and

(D) whether disciplinary action has been taken;

(2) a reinstatement fee as determined by the board.

(k) A licensee may renew the license under the provisions of the Act after expiration of the 60-day grace period without a late renewal penalty fee being assessed due to a medical hardship whether or not the licensee met the requirements of §741.162 of this title. If the following is submitted and found acceptable by the board office, the license shall be renewed:

(1) a signed statement requesting renewal due to medical hardship;

(2) an original letter signed by the licensee's physician stating the licensee was unable to practice for at least six months during the renewal period because of a physical or mental disability;

(3) the completed, dated, and signed renewal form;

(4) any approved continuing education hours earned during the renewal period; and

(5) the license renewal fee.

(l) A licensee may petition the board if the licensee does not meet the requirements of subsection (m) of this section but believes he or she has a valid medical reason for the late renewal. The petition shall be reviewed by the board's designee within 15 working days of receipt of the request.

(m) The board shall monitor a licensee's compliance with the continuing education requirements by the use of a random audit. In the event the licensee has been selected for an audit to verify compliance with the continuing education requirement as described in §741.162 of this title, the

license shall not be renewed until the licensee submits acceptable proof of having earned the required continuing education hours. If this documentation is not received or found unacceptable, the licensee shall be notified by the board office of the deficiency.

(n) Failure to timely furnish required documentation or providing false information during the audit or renewal process is grounds for disciplinary action against the licensee.

(o) The board shall deny renewals pursuant to the Texas Education Code, §57.491, concerning defaults on guaranteed student loans.

(p) The board shall deny renewals when a license holder is subject to the suspension of license provisions relating to child support and child custody in the Family Code, Chapter 232.

(q) If all conditions required for renewal are met prior to expiration of the 60-day grace period, the board shall issue a renewed license.

(r) If the licensee has not completed the renewal process upon expiration of the 60-day grace period, he or she shall cease practicing. The licensee shall then renew his or her license in accordance with §741.164 of this title (relating to Late Renewal of a License) if he or she wishes to practice.

(s) A suspended license is subject to expiration and may be renewed as provided in this subchapter; however, the renewal does not entitle the licensee to engage in the licensed activity or in any other activity or conduct in violation of the order or judgment by which the license was suspended, until such time as the license is fully reinstated.

(t) A license revoked on disciplinary grounds shall not be renewed; however, the license may be reinstated under the Act, §401.457. The former licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect, plus the late renewal penalty fee, if any, accrued since the time of the license revocation.

(u) For all licenses renewing after December 31, 2009, the jurisprudence examination shall be completed in order to renew the license. Licensees shall be required to complete the jurisprudence examination for only one renewal period.

(v) Proof of successfully completing the jurisprudence examination must be submitted to the board at the time of renewal.

§741.162 Requirements for Continuing Professional Education

(a) Continuing professional education in speech-language pathology and audiology as required by the Act consists of a series of planned individual learning experiences beyond the basic educational program which has led to a degree or qualifies one for licensure.

(b) A continuing education unit (CEU) is the basic unit of measurement used to credit individuals with continuing education activities for licensure. One CEU is defined as 10 contact hours of participation in an approved continuing education experience.

(c) A minimum of twenty clock hours (two CEUs) shall be required to renew a license issued for a two-year term. The holder of dual licenses, meaning both a speech-language pathology license and an audiology license, shall be required to earn 30 clock hours (three CEUs) to renew a license issued for a two-year term. Effective April 30, 2009, a license holder must complete a minimum of 2.0 clock hours (0.2 CEUs) in ethics as part of the continuing education requirement each renewal term.

(d) When renewing an initial license, the licensee shall submit 10 continuing education hours if the initial license was issued for less than 12 months and 20 continuing education hours if the initial license was issued for more than 12 months. Continuing education hours earned before the original effective date of a license are not acceptable.

(e) Continuing professional education shall be earned in one of the following areas:

(1) basic communication processes;

(2) speech-language pathology;

(3) audiology;

(4) ethics; or

(5) an area of study related to the areas listed in paragraphs (1) - (4) of this subsection.

(f) Any continuing education activity shall be provided by a board approved sponsor with the exception of activities referenced in subsections (g) - (i) of this section. A list of approved sponsors designated by the board shall be made available to all licensees on the board's website.

(g) University or college course work completed with a grade of at least a "C" or for credit from an accredited college or university in the areas listed in subsection (e)(1) - (4) of this section shall be approved for 10 continuing education hours per semester hour, with a maximum of 20 continuing education hours per course.

(h) For any coursework that is offered by a sponsor that is not board approved, the licensee shall submit by email the course brochure or syllabus 30 days prior to the event for consideration for approval. Partial credit may be awarded.

(i) Earned continuing education hours exceeding the minimum requirement in a previous renewal period shall first be applied to the continuing education requirement for the current renewal period.

(1) A maximum of 10 additional clock hours may be accrued during a license period to be applied to the next consecutive renewal period. Two of the 10 additional clock hours of the rollover hours may be in ethics.

(2) A maximum of 15 additional clock hours may be accrued by dual speech-language pathology and audiology licensees during a license period to be applied to the next consecutive renewal period.

(j) The licensee shall be responsible for maintaining a record of his or her continuing education experiences for a period of at least three years.

(k) Proof of completion of a valid continuing education experience shall include the name of the licensee, the sponsor of the event, the title and date of the event, and the number of continuing education hours earned. Acceptable verification shall be:

(1) a letter, Continuing Education (CE) registry, or form bearing a valid signature or verification as designated by the board approved sponsor;

(2) in the event verification referenced in paragraph (1) of this subsection cannot be obtained, the board may accept verification from the presenter of an approved event if the presenter can also provide proof that the event was acceptable to an approved sponsor; or

(3) an original or certified copy of the university or college transcript if earned under subsection (g) of this section.

(l) The documentation, certificates, diplomas, or other documentation verifying earning of continuing education hours shall not be forwarded to the board at the time of renewal unless the board selected the licensee for audit.

(m) The audit process shall be as follows.

(1) The board shall select for audit a random sample of licensees for each renewal month. The renewal form shall indicate whether the licensee has been selected for audit.

(2) A licensee selected for audit shall submit documentation defined in subsections (k) and (l) of this section at the time the renewal form and fee are submitted to the board.

(3) Failure to furnish this information in a timely manner or providing false information during the audit or renewal process are grounds for disciplinary action against the licensee.

(4) A licensee who is selected for continuing education audit may renew through the online renewal process. However, the license will not be considered renewed until required continuing education documents are received, accepted and approved by the board office.

(n) Completion of the jurisprudence examination shall count as one hour of the continuing education requirement for professional ethics, as referenced in subsection (c) of this section per renewal period.

§741.163 Criminal History Record Information Requirement for License Renewal

(a) An applicant renewing a license shall submit a completed legible set of fingerprints on a form prescribed by the board, to the board or the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureaus of Investigations.

(b) A person who does not comply with the requirements in subsection (a) of this section shall not received a license renewal.

(c) The requirements of this section do not apply to a license holder who has previously submitted fingerprints under this section or §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.164 Late Renewal of a License

(a) Licensees who fail to renew their license before the end of the 60-day grace period shall be assessed a late renewal penalty as required by the Act, unless the license had been placed on inactive status.

(b) The Act prohibits an individual from practicing after expiration of the 60-day grace period. Penalties for doing so are defined in the Act.

(c) The following shall be submitted to renew a license after expiration of the grace period:

(1) the board late renewal of a license form which requires a written, signed statement from the licensee and his or her employer(s) documenting the licensee's practice activities since expiration of the 60-day grace period under the Act and this chapter;

(2) the late renewal penalty fee as set out in §741.181 of this title (relating to Schedule of Fees);

(3) Continuing Education documentation as required by §741.162(i) of this title (relating to Requirements for Continuing Professional Education); and

(4) verification of continuing education hours earned as required by §741.162(k) of this title.

(d) The following number of continuing education hours shall be required:

(1) if renewing an initial license before the end of the first year of the penalty status, the number of continuing education hours that shall be earned are listed under §741.162(d) of this title;

- (2) if renewing before the end of the first year of penalty status, ten continuing education hours or 15 hours for holders of dual speech-language pathology and audiology licenses;
- (3) if renewing at the end of the first year of penalty status but before the end of the second year, 20 continuing education hours or 30 hours for holders of dual speech-language pathology and audiology licenses; or
- (4) if renewing at the end of the second and final year of penalty status, 30 continuing education hours or 45 hours for holders of dual speech-language pathology and audiology licenses.
- (e) Continuing education hours accrued under §741.162(i) of this title may be used if the hours are available for use when the request for renewal is received by the board.
- (f) The random audit for compliance with the continuing education requirements referenced in §741.161(m) of this title (relating to Renewal Procedures) does not apply to late renewal of a license.
- (g) If additional documentation is required, the request to renew the license shall remain open no longer than 90 days following the date the board office received the initial request to renew the license. If the documentation requested is not received before the 90 days referenced, the request for late renewal of a license shall be denied and the fee forfeited.
- (h) Failure to furnish the information in a timely manner or providing false information during the late renewal process are grounds for disciplinary action.
- (i) If the board office approves the request for late renewal of a license, active status shall begin on the date of approval. The licensee shall earn continuing education hours as required by §741.162 of this title in order to renew the license upon expiration.

§741.165 Renewal of Licensee on Active Military Duty

If a licensee fails to timely renew his or her license because the licensee is or was on active duty with the armed forces of the United States of America serving outside the State of Texas, the licensee may renew the license as follows.

- (1) Renewal of the license shall be requested by the licensee, the licensee's spouse, or an individual having power of attorney from the licensee. The renewal form shall include a current address and telephone number for the individual requesting the renewal.
- (2) A copy of the official orders or other official military documentation showing that the licensee is or was on active duty serving outside the State of Texas, shall be filed with the board along with the renewal form.
- (3) A licensee renewing under this section shall pay the applicable renewal fee, but not a late renewal penalty fee.

(4) A licensee renewing under this section shall submit proof of any clock hours of continuing education earned prior to being called to active duty serving outside the State of Texas, and no further continuing education hours shall be required for that renewal. **SUBCHAPTER M FEES AND PROCESSING PROCEDURES**

§741.181 Schedule of Fees

(a) All fees paid to the board are non-refundable. For all applications and renewal applications, the board is authorized to collect subscription and convenience fees, in amounts determined by tex.gov, to recover costs associated with application and renewal application processing through tex.gov. For all applications and renewal applications, the board is authorized to collect fees to fund the Office of Patient Protection within the Health Professions Council, as required by Occupations Code, §101.307 (relating to Health Professions Council Funding of Office.) The schedule of fees is as follows:

(1) application and initial license fee:

(A) \$150 for a two year license; or

(B) an intern license--\$75.

(2) temporary certificate of registration fee--\$55;

(3) license renewal fee--\$100;

(4) dual license fees as a speech-language pathologist and audiologist--each license must be renewed separately and fees will be determined separately;

(5) duplicate license, certificate, or registration fee--\$10;

(6) license verification fee--\$10;

(7) late renewal penalty fee--an amount equal to the renewal fee(s), with a maximum of three renewal fees, plus the examination fee;

(8) examination fee--the amount charged by the board's designee administering the examination; and

(9) criminal history evaluation letter fee--\$50.

(b) Any remittance submitted to the board in payment of a required fee shall be in the form of a personal check, certified check, or money order unless this section requires otherwise. Checks from foreign financial institutions are not acceptable. Payment may also be made through the online renewal process using an electronic check or credit card.

(c) An applicant whose check for the application and initial license fee is returned marked insufficient funds, account closed, or payment stopped shall be allowed to reinstate the application by remitting to the board a money order or check for guaranteed funds within 30 days of the date of the receipt of the board's notice. Otherwise, the application and the approval shall be invalid. A penalty fee of \$25, in addition to the amount of the check, must be included with the payment remitted to the board office.

(d) A licensee whose check for the renewal fee is returned marked insufficient funds, account closed, or payment stopped shall remit to the board a money order or check for guaranteed funds within 30 days of the date of receipt of the board's notice. Otherwise, the license shall not be renewed. If a renewal card has already been issued, it shall be invalid. If the guaranteed funds are received after expiration of the 60-day grace period, a late renewal penalty fee shall be assessed. A penalty fee of \$25, in addition to the amount of the check, must be included with the payment remitted to the board office.

§741.182 Time Periods For Processing Applications and Renewals

(a) Within 15 working days of the board's receipt of a new application and supporting documentation, the board office shall:

(1) approve the application and send written notification to the applicant that he or she may begin practicing; or

(2) mail a letter of deficiency listing the documentation that must be submitted before the application shall be approved.

(b) The applicant shall be notified within 15 working days of the date the documentation referred to in subsection (a)(2) of this section is received and the application approved.

(c) Within 15 working days of the board's receipt of a request to renew a license and any applicable documentation, the board office shall:

(1) approve the request to renew the license; or

(2) mail a letter of deficiency listing the documentation that must be submitted before the request for renewal shall be approved.

(d) The licensee shall be notified within 15 working days of the date the documentation referred to in subsection (c)(2) of this section is received and the request to renew the license is approved.

(e) The board shall comply with the following procedures in reimbursement of fees.

(1) In the event a request for a license or registration is not processed in the time periods stated in subsections (a) - (d) of this section, the applicant, licensee, or registrant has the right to request reimbursement of all fees paid in that particular application process. The request shall be submitted in writing to the executive director of the board. If the executive director does not

agree that the time period has been violated or finds that good cause existed for exceeding the time period, the request shall be denied.

(2) Good cause for exceeding the time period is considered to exist if:

(A) the number of requests for new licenses, registrations, and renewals exceeds by 15% or more the number of requests in the same calendar quarter of the preceding year;

(B) another public or private entity relied upon by the board in the licensing process caused the delay; or

(C) any other condition exists giving the board good cause for exceeding the time period.

(f) If a request for reimbursement under subsection (e) of this section is denied by the executive director, the applicant may appeal to the presiding officer of the board for a timely resolution of the dispute arising from a violation of the time period.

(1) The applicant, licensee, or registrant shall give written notice to the presiding officer that he or she requests full reimbursement of all fees paid because his or her request for a license or registration was not processed within the applicable time period.

(2) The executive director shall submit a written report of the facts related to the processing of the application or renewal request and of any good cause for exceeding the applicable time period.

(3) The presiding officer shall provide written notice of his or her decision to the applicant, licensee, or registrant and the executive director.

(4) An appeal shall be decided in the applicant's or licensee's favor if the applicable time period was exceeded and good cause was not established. In which case, full reimbursement of all fees paid in that particular process shall be made to the applicant or licensee.

(g) Contested cases related to the denial of license or renewal shall be handled in accordance with the provision of the Texas Government Code, Chapter 2001. **SUBCHAPTER N COMPLAINTS, VIOLATIONS, PENALTIES, AND DISCIPLINARY ACTIONS**

§741.191 Complaint Procedures

(a) A board member who participated in the investigation of a complaint or an informal settlement negotiations regarding the complaint:

(1) may not vote on the matter at a board meeting related to the complaint; and

(2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under subsection (a)(2) of this section shall be entered into the minutes of the meeting.

(c) A person wishing to report an alleged violation of the Act or the rules by a licensee or other person shall notify the executive director. The initial notification may be in writing, by telephone, or by personal visit to the board office.

(d) Upon receipt of a complaint, the executive director shall send an acknowledgment letter to the complainant along with an official form which the complainant must complete and return to the board before further action may be taken. The executive director may accept an anonymous complaint if there is sufficient information for the investigation.

(e) A complaints committee shall be appointed to work with the executive director to:

(1) review and determine whether each complaint fits within the category of a serious complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act or this chapter.

(f) Prior to or during an investigation, the executive director or his or her designee shall request a response from the licensee or person against whom an alleged violation has been filed to gather information required by the complaints committee of the board. The licensee or person against whom an alleged violation has been filed must respond within 15 working days of the executive director's request.

(g) If it is determined that the matters alleged in the complaint are non-jurisdictional, or if the matters alleged in the complaint would not constitute a violation of the Act or this chapter, the executive director may dismiss the complaint and give written notice of dismissal to the licensee or person against whom the complaint has been filed, the complainant, and the complaints committee.

(h) If it is determined that the matters in the complaint are jurisdictional, the complaint shall be investigated. The executive director or the committee may initiate the investigation.

(i) If the committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(j) If the board has the authority to resolve a written complaint, at least quarterly and until final disposition of the complaint, the board shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(k) After review of a complaint or allegation that is not resolved by the committee, the committee may:

- (1) dismiss the complaint;
- (2) revoke, or suspend, or deny the license; or
- (3) take other appropriate action as authorized by law be taken.

§741.192 Disciplinary Action; Notices

(a) The board may deny, revoke, temporarily suspend, or suspend a license, assess an administrative penalty, order a refund, or may probate disciplinary action, or may issue a reprimand to a person who:

- (1) violates a provision of the Act;
- (2) violates a rule adopted by the board;
- (3) offers to pay or agrees to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a client or patronage; or
- (4) is issued a public letter of reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under the Code of Criminal Procedure, Chapter 56.

(b) Prior to institution of formal proceedings to discipline a licensee, the board shall give written notice to the licensee by certified mail, return receipt requested, of the facts or conduct alleged to warrant the disciplinary action. The notice shall inform the licensee or applicant of the opportunity to retain legal representation. The licensee or applicant shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(c) If denial, revocation, or suspension of a license is proposed, the committee shall give written notice by regular and certified mail, return receipt requested, to the licensee notifying the licensee of the committee's proposed action and the licensee's options for resolving the complaint. A resolution to a complaint include, but are not limited to, a licensee showing compliance with the law/rules; a licensee's surrender of his or her license, a licensee's compliance with the committee's proposed action; and a licensee's request for an informal conference and/or formal hearing. If the licensee requests a formal hearing it must be requested within 15 working days of the receipt of the notice.

(d) Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth working day after the notice is mailed to the last address known to the board unless another date is reported by the United States Postal Service.

§741.193 Revocation, Suspension, Emergency Suspension, or Denial

(a) If the board suspends a license, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.

(b) If a suspension overlaps a license renewal date, the person suspended shall comply with the renewal procedures in this chapter; however, the suspension shall remain in effect pursuant to subsection (a) of this section.

(c) Upon the revocation, suspension or non-renewal of a license, a licensee shall return his or her license certificate and all existing renewal cards to the executive director.

(d) The board or the complaints committee of the board may suspend a license on an emergency basis.

(1) A license may be suspended without prior notice to the licensee and without a prior hearing.

(2) In order to suspend a license on an emergency basis, the board or complaints committee must determine that continued practice by a license holder would constitute a continuing and imminent threat to the public welfare.

(3) This determination shall be made from the evidence or information presented to the board or complaints committee.

(4) The board or complaints committee shall issue an order suspending the license. The order shall be effective on the date specified in the order.

(5) Proceedings for a formal hearing must be initiated prior to, or simultaneously on, the effective date of the emergency suspension.

(A) The Administrative Procedure Act, Government Code, Chapter 2001, shall apply to a hearing under this subsection.

(B) If there is a conflict between the requirement of the Administrative Procedure Act and the requirements of this Act, then the requirements of this Act shall govern.

(6) A preliminary hearing shall be held not later than the 14th day after the effective date of the emergency suspension to determine if probable cause exists to find that a continuing and imminent threat to the public welfare still exists. The State Office of Administrative Hearings is hereby authorized to determine if probable cause exists.

(7) A final hearing shall be held not later than the 61st day after the effective date of the emergency suspension.

(A) The purpose of the hearing shall be to determine whether continued practice of the licensee would constitute a continuing and imminent threat to the public welfare.

(B) In determining whether there is a continuing and imminent threat to the public welfare, the board shall consider whether a violation of state law or this chapter exists.

(C) If such a threat exists, the board shall enter an order suspending the license of the licensee.

(D) A suspension shall remain in effect in accordance with subsection (a) of this section.

(8) The time periods for holding a preliminary hearing or a final hearing shall be tolled during the period of time in which the licensee makes discovery requests. The time periods may also be waived by mutual agreement of the licensee and the authorized representative of the board. If a preliminary hearing or final hearing is not held in accordance with the time periods stated in this subsection (unless tolled or waived), the emergency suspension shall become null and void upon the date on which the hearing was required to be held under the Act.

§741.194 Informal Disposition

(a) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal conference held to determine whether the matters in controversy can be resolved without further proceedings.

(b) The decision to hold a conference shall be within the discretion of the executive director or a member of the complaints committee.

(c) An informal conference shall be voluntary and shall not be a prerequisite to a formal hearing.

(d) The executive director shall establish the time, date and place of the informal conference, and provide written notice to the licensee or applicant. Notice shall be provided no less than 10 working days prior to the date of the informal conference by certified mail, return receipt requested to the last known address of the licensee or applicant. The licensee or applicant may waive the 10-day notice requirement.

(e) The notice shall inform the licensee or applicant of the nature of the alleged violation or the reason for application denial; that the licensee may be represented by legal counsel; that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate; that a complaints committee member shall be present; that the board's legal counsel shall be present; that the licensee's or applicant's attendance and participation is voluntary; that the complainant and any client involved in the alleged violations may be present; and that the informal conference shall be canceled if the licensee or applicant notifies the executive director that he or she or his or her legal counsel will not attend.

(f) The complainant may be informed that he or she may appear and testify or may submit a written statement for consideration at the informal conference.

- (g) A member of the complaints committee shall be present at an informal conference.
- (h) The conference shall be informal and shall not follow the procedures established in this chapter for formal hearings.
- (i) The licensee, the licensee's attorney, the board's attorney, the executive director and the complaints committee member may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.
- (j) The board's legal counsel may attend each informal conference. The complaints committee member or executive director may call upon the attorney at any time for assistance in the informal conference.
- (k) The licensee shall be afforded the opportunity to make statements that are material and relevant.
- (l) The complaints committee member or the executive director may exclude from the informal conference all persons except witnesses during their testimony, the licensee, the licensee's attorney, and board staff.
- (m) At the conclusion of the informal conference, the complaints committee member or the executive director may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Act or this chapter. The complaints committee member may also conclude that the board lacks jurisdiction; conclude that a violation of the Act or this chapter has not been established; order that the investigation be closed; or refer the matter for further investigation.
- (n) The licensee or applicant may either accept or reject the recommendations of the informal conference. If the recommendations are accepted, an agreed order shall be prepared by the board office or the board's legal counsel and forwarded to the licensee or applicant. The order may contain agreed findings of fact and conclusions of law. The licensee or applicant shall execute the order and return the signed order to the board office within 10 working days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction shall constitute rejection of the recommendations.
- (o) If the licensee or applicant signs and accepts the proposed recommendations, the agreed order shall be submitted to the complaints committee and the board for approval. Placement of the agreed order on the committee and board agendas shall constitute only a recommendation for approval by the board.
- (p) The identity of the licensee or applicant shall not be made available to the board until after the board has reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the board meeting. The licensee or applicant shall be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

(q) Upon an affirmative majority vote, the board shall enter an agreed order approving the accepted recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

(r) If the board does not approve a proposed agreed order, the licensee or applicant shall be so informed. The matter shall be referred to the executive director for other appropriate action.

(s) A proposed agreed order is not effective until the board has approved the agreed order and the order is signed by the board chair.

(t) A licensee's opportunity for an informal conference under this section shall satisfy the requirement of the Administrative Procedure Act, Texas Government Code, §2001.054(c).

§741.195 Formal Hearings; Surrender of License

(a) The State Office of Administrative Hearings shall conduct all formal hearings and contested cases in accordance with the Texas Government Code, Chapter 2001 et seq.

(b) All formal hearings unless otherwise determined by the administrative law judge or upon agreement of the parties shall be held in Austin, Texas.

(c) If the applicant or licensee fails to appear or be represented at the scheduled hearing, the person is deemed to be in agreement with the charges and proposed action and to have waived the right to a hearing.

(d) A witness or deponent shall be paid in accordance with the Texas Government Code, §2001.103.

(e) Following the hearing an administrative law judge shall submit the proposal for decision to the board for its approval.

(1) The board is not required to adopt the proposal for decision and may take action as it deems appropriate and lawful.

(2) All final orders or decisions shall be made by the board.

(f) If a right to a hearing is waived under §741.192(c) of this title (relating to Disciplinary Action; Notices), the board shall consider an order denying, suspending, probating, or revoking the license or registration as described in written notice to the licensee or applicant.

(1) The licensee or applicant and the complainant shall be notified of the date, time, and place of the board meeting at which the default order will be considered. Attendance by the licensee or applicant is voluntary.

(2) Upon an affirmative majority vote, the board shall enter an order imposing appropriate disciplinary action.

(g) A licensee may offer to surrender the license to the board. The board shall:

(1) notify the licensee that the request was received; and

(2) consider accepting the voluntary surrender of the license at its next regularly scheduled meeting.

(h) When a licensee has offered the surrender of the license after a complaint has been filed alleging violations of the Act or this chapter, and the board has accepted such a surrender, that surrender is deemed to be the result of a formal disciplinary action.

(i) A license which has been surrendered and accepted may not be reinstated; however, that person may apply for a new license in accordance with the Act and this chapter.

§741.196 Default Orders

(a) If a right to a hearing is waived under §741.192(c) of this title (relating to Disciplinary Action; Notices) or a licensee fails to appear at an informal conference as described in §741.194(u) (relating to Informal Disposition), the board may enter an order taking disciplinary action or an order of application denial as described in the written notice to the licensee or applicant.

(b) Upon an affirmative majority vote, the board shall enter an order imposing appropriate disciplinary action or an order of application denial.

§741.197 Monitoring of Licensees

(a) The department shall maintain a complaint tracking system.

(b) Each licensee who has had disciplinary action taken against his or her license shall be required to submit regularly scheduled reports to the executive director, if directed by the board. The reports shall be scheduled at intervals appropriate to each individual situation.

(c) The executive director shall review the reports and shall provide the reports to the complaints committee.

(d) The complaints committee may consider more severe disciplinary proceedings if the licensee fails to comply with the provisions of a disciplinary order.

§741.198 Administrative Penalties

(a) The assessment of an administrative penalty is governed by the Act.

(b) The amount of an administrative penalty shall be based on the following criteria.

(1) The seriousness of a violation shall be categorized by one of the following levels:

(A) Level I--violations that have or had an adverse impact on the health or safety of a client (or former client, where applicable);

(B) Level II--violations that have or had the potential to cause an adverse impact on the health or safety of a client (or former client, where applicable) but did not actually have an adverse impact; or

(C) Level III--violations that have no or minor health or safety significance.

(2) The range of administrative penalties by levels is as follows:

(A) Level I--not more than \$5,000 per day;

(B) Level II--not more than \$2,500 per day; or

(C) Level III--not more than \$1,250 per day.

(3) Subsequent violations at the same level for which an administrative penalty has previously been imposed may be categorized at the next higher level.

(4) Adjustments to the range of an administrative penalty may be made for:

(A) prompt reporting;

(B) corrective action;

(C) compliance history; or

(D) multiple violations.

§741.199 Schedule of Sanctions

(a) When the board determines that sanctions are appropriate, proposals for imposition of sanctions and disciplinary actions shall be made in accordance with the Act.

(b) This schedule of sanctions is intended to be utilized by the complaints committee as a guide in assessing sanctions for violations of the Act or this chapter. The schedule is also intended to serve as a guide to administrative law judges, and as a written statement of applicable rules or policies of the board pursuant to the Texas Government Code, §2001.058(c). The failure of an administrative law judge to follow the schedule may serve as a basis to vacate or modify an order pursuant to the Texas Government Code, §2001.058(e). This schedule is not intended as a

substitute for thoughtful consideration of each individual disciplinary matter. Instead, it should be used as a tool in that effort.

(c) Sanctions shall be determined by the following:

- (1) the seriousness of the violation(s);
- (2) previous compliance history;
- (3) the severity level necessary to deter future violations;
- (4) efforts to correct the violation; and
- (5) any other extenuating circumstances.

(d) Relevant Factors. When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction, which include: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. It is the responsibility of the licensee to bring exonerating factors to the attention of the complaints committee or the administrative law judge. Specific factors are to be considered as set forth as follows.

(1) Seriousness of Violation. The following factors are identified:

- (A) the nature of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as emotional, physical, or financial;
- (B) the extent of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as whether the harm is low, moderate or severe, and the number of persons harmed or exposed to risk; and
- (C) the frequency and time-periods covered by the violations, such as whether there were multiple violations, or a single violation, and the period of time over which the violations occurred.

(2) Nature of the violation. The following factors are identified:

- (A) the relationship between the licensee and the person harmed, or exposed to harm, such as a dependent relationship of a client-counselor, or stranger to the licensee;
- (B) the vulnerability of the person harmed, or exposed to harm;
- (C) the moral culpability of the licensee, such as whether the violation was:
 - (i) intentional or premeditated;
 - (ii) due to blatant disregard or gross neglect; or

(iii) an omission, unintentional or inadvertence; and

(D) the extent to which the violation evidences lack of character, such as lack integrity, trustworthiness, or honesty.

(3) Personal Accountability. The following factors are identified:

(A) admission or wrong or error, and acceptance of responsibility;

(B) appropriate degree of remorse or concern;

(C) efforts to ameliorate the harm or make restitution;

(D) efforts to ensure future violations do not occur; and

(E) cooperation with any investigation or request for information.

(4) Deterrence. The following factors are identified:

(A) the sanction required to deter future similar violations by the licensee;

(B) sanctions necessary to ensure compliance by the licensee of other provisions of the Act or this chapter; and

(C) sanctions necessary to deter other licensees from such violations.

(5) Miscellaneous Factors. The following factors are identified:

(A) age and experience at time of violation;

(B) presence or absence of prior or subsequent violations;

(C) conduct and work activity prior to and following the violation;

(D) character references; and

(E) any other factors justice may require.

(e) Severity levels may be categorized by one of the following severity levels:

(1) severity level I--violations that have, had, or may have an adverse impact on the health or safety of a client to include serious harm, permanent injury, or death to a client and may result in revocation of the license and/or assessment of administrative penalty;

(2) severity level II--violations that have, had, or may have an adverse impact on the health and safety of a client but less serious than level I and may result in suspension of the license and/or administrative penalty;

(3) severity level III--violations that have, had, or may have a minor health or safety significance or flagrant or repeated violations of the Act and/or board rules and may result in probated suspension of the license and/or assessment of administrative penalty;

(4) severity level IV--violations that have, had, or may have less than minor significance, but if left uncorrected, could lead to more serious circumstances and may result in a board issued reprimand and/or assessment of administrative penalty; and

(5) severity level V--violations that are minor infractions and may result in a warning or information letter.

(f) Other Actions. The complaints committee or executive director, as appropriate, may also resolve pending complaints by issuance of formal advisory letters informing licensees of their duties under the Act or this chapter, and whether the conduct or omission complained of appears to violate such duties. Such advisory letters may be introduced as evidence in any subsequent disciplinary action involving acts or omissions after receipt of the advisory letters. The complaints committee or executive director, as appropriate, may also issue informal reminders to licensees regarding compliance with minor licensing matters. The licensee is not entitled to a hearing on the matters set forth in formal advisory letters or informal reminders, but may submit a written response to be included with such letters in their licensing records.

§741.200 Licensing of Persons with Criminal Convictions

(a) This section establishes guidelines and criteria for the eligibility of persons with criminal convictions to obtain and retain licenses issued by the board.

(b) The executive director shall consider the criminal convictions of a licensee or applicant as possible grounds for disciplinary action or application denial and forward the matter to the complaints committee for review.

(c) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny to a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee. In considering whether a criminal conviction directly relates to the professions of speech-language pathology and audiology, the board shall consider:

(1) the nature and seriousness of the crime;

(2) the relationship of the crime to the purposes for requiring a license to practice speech-language pathology and audiology;

(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and

(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a license holder. In making this determination, the board will apply the criteria outlined in Texas Occupations Code, §53.023 (relating to Additional Factors.)

(d) The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

(1) the misdemeanor of knowingly or intentionally practicing speech-language pathology or audiology without a license;

(2) an offense involving moral turpitude;

(3) the misdemeanor of failing to report child abuse or neglect;

(4) a misdemeanor involving deceptive business practices;

(5) the offense of assault or sexual assault;

(6) the felony offense of insurance claim fraud;

(7) a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:

(A) concerning Title 5 offenses against the person;

(B) concerning Title 7 offenses against property;

(C) concerning Title 8 offenses against public administration;

(D) concerning Title 9 offenses against public order and decency;

(E) concerning Title 10 offenses against public health, safety, and morals; and

(F) concerning Title 4 offenses of attempting or conspiring to commit any of the offenses in subparagraphs (A) - (E) of this paragraph; or

(8) any other misdemeanor or felony directly relating to the duties and responsibilities of a licensee.

(e) Procedures for disciplinary action or application denial against persons with criminal convictions.

(1) The board's executive director will give written notice to the person that the board intends to take disciplinary action or deny the application after a hearing in accordance with the provisions of the Administrative Procedure Act and the board's hearing procedures.

(2) If the board takes disciplinary action or denies an application under this section, the executive director will give the person written notice of the reasons for each board decision.

§741.201 Suspension of License Relating to Child Support and Child Custody

(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support or for failure to comply with the terms of a court order providing for the possession of or access to a child, the executive director shall immediately determine if the board has issued a license to the obligator named in the order, and, if a license has been issued:

(1) record the suspension of the license in the board's records;

(2) report the suspension as appropriate; and

(3) demand surrender of the suspended license.

(b) The board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee and to others concerned with the license.

(c) The board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.

(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the board.

(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.

(f) An individual who continues to engage in the practice of speech-language pathology or audiology or continues to hold himself out to the public as a license holder after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the board.

(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the suspended license to the individual if the individual is otherwise qualified for the license.

(h) The individual shall pay a reinstatement fee in an amount equal to the renewal fee set out in §741.181(a)(4) of this title (relating to Schedule of Fees) prior to issuance of the license under subsection (g) of this section.

§741.202 Request for Criminal History Evaluation Letter

(a) In accordance with Occupations Code, §53.102, a person may request the department to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:

(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(2) has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

(b) A person making a request for issuance of a criminal history evaluation letter shall submit the request on a form prescribed by the department, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request shall state the basis for the person's potential ineligibility.

(c) The department has the same authority to investigate a request submitted under this subsection and the requestor's eligibility that the department has to investigate a person applying for a license.

(d) If the department determines that a ground for ineligibility does not exist, the department shall notify the requestor in writing of the determination. The notice shall be issued not later than the 90th day after the date the department received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.

(e) If the department determines that the requestor is ineligible for a license, the department shall issue a letter setting out each basis for potential ineligibility and the department's determination as to eligibility. The letter shall be issued not later than the 90th day after the date the department received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the department at the time the letter is issued, the department's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

§741.203 Board Ordered Refund

(a) The board may order an audiologist to pay a refund to a consumer who returns a hearing instrument(s) during the 30-day trial period required by the rules adopted under this chapter.

(b) If the 30-day period ends on a Sunday or a holiday, then the 30-day period shall not expire until the next business day.

(c) The licensee shall have 30 days from the date of a consumer's return of the hearing instrument(s) to reimburse the consumer.

(d) In the event that the licensee fails to reimburse the consumer within the prescribed period in subsection (c) of this section, then the licensee may be subject to additional penalties and/or sanctions provided for under the Act and rules.

§741.204 Cease and Desist Order

(a) If it is determined by the board or the board's designee that a person who is not licensed under this chapter is violating this chapter or a rule adopted under this chapter, or another state statute or rule relating to the practice of speech-language pathology and/or audiology, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under this chapter. **SUBCHAPTER O TELEHEALTH**

§741.211 Definitions Relating to Telehealth

Unless the context clearly indicates otherwise, the following words and terms, when used in this subchapter, shall have the following meanings.

(1) Client--A consumer or proposed consumer of speech-language pathology or audiology services.

(2) Client site--The physical location of the client at the time the services are being furnished via telecommunications.

(3) Consultant--Any professional who collaborates with a provider of telehealth services to provide services to clients.

(4) Facilitator--The individual at the client site who assists with the delivery of the telehealth services at the direction of the audiologist or speech-language pathologist.

(5) Provider--An individual who holds a current, renewable, unrestricted speech-language pathology or audiology license under Texas Occupations Code, §401.302 and §401.304; or an individual who holds an audiology intern license under Texas Occupations Code, §401.311.

(6) Provider site--The physical location at which the speech-language pathologist or audiologist delivering the services is located at the time the services are provided via telecommunications which is distant or remote from the client site.

(7) Telecommunications--Interactive communication at a distance by concurrent two-way transmission, using telecommunications technology, of information, including, without limitation, sound, visual images, and/or computer data, between the client site and the provider

site, and required to occur without a change in the form or content of the information, as sent and received, other than through encoding or encryption of the transmission itself for purposes of and to protect the transmission.

(8) Telecommunications technology--Computers and equipment, other than telephone, email or facsimile technology and equipment, used or capable of use for purposes of telecommunications. For purposes of this subchapter, the term includes, without limitation:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and storage and forward; and

(C) other technology that facilitates the delivery of telepractice services.

(9) Telehealth--The use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services to a client from a provider.

(10) Telehealth services--The application of telecommunication technology to deliver speech-language pathology and/or audiology services at a distance for assessment, intervention, and/or consultation.

(11) Telepractice--The use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.

(12) Telepractice services--The rendering of audiology and/or speech-language pathology services through telepractice to a client who is physically located at a site other than the site where the provider is located.

§741.212 Service Delivery Models of Speech-Language Pathologists

(a) Telehealth may be delivered in a variety of ways, including, but not limited to those set out in this section.

(1) Store-and-forward model/electronic transmission is an asynchronous electronic transmission of stored clinical data from one location to another.

(2) Clinician interactive model is a synchronous, real time interaction between the provider and client or consultant that may occur via telecommunication links.

(b) Self-monitoring/testing model refers to when the client or consultant receiving the services provides data to the provider without a facilitator present at the site of the client or consultant.

(c) Live versus stored data refers to the actual data transmitted during the telepractice. Both live, real-time and stored clinical data may be included during the telepractice.

§741.213 Requirements for the Use of Telehealth by Speech-Language Pathologists

(a) The requirements of this section apply to the use of telehealth by speech-language pathologists.

(b) A provider shall comply with the board's Code of Ethics and Scope of Practice requirements when providing telehealth services.

(c) The scope, nature, and quality of services provided via telehealth are the same as that provided during in-person sessions by the provider.

(d) The quality of electronic transmissions shall be equally appropriate for the provision of telehealth services as if those services were provided in person.

(e) A provider shall only utilize technology which they are competent to use as part of their telehealth services.

(f) Equipment used for telehealth services at the clinician site shall be maintained in appropriate operational status to provide appropriate quality of services.

(g) Equipment used at the client/patient site at which the client or consultant is present shall be in appropriate working condition and deemed appropriate by the provider.

(h) The initial contact between a licensed speech-language pathologist and client shall be at the same physical location to assess the client's candidacy for telehealth, including behavioral, physical, and cognitive abilities to participate in services provided via telecommunications prior to the client receiving telehealth services.

(i) A provider shall be aware of the client or consultant level of comfort with the technology being used as part of the telehealth services and adjust their practice to maximize the client or consultant level of comfort.

(j) When a provider collaborates with a consultant from another state in which the telepractice services are delivered, the consultant in the state in which the client receives services shall be the primary care provider for the client.

(k) As pertaining to liability and malpractice issues, a provider shall be held to the same standards of practice as if the telehealth services were provided in person.

(l) A provider shall be sensitive to cultural and linguistic variables that affect the identification, assessment, treatment, and management of the clients.

(m) Upon request, a provider shall submit to the board data which evaluates effectiveness of services provided via telehealth including, but not limited to, outcome measures.

(n) Telehealth providers shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.

(o) Notification of telehealth services shall be provided to the client, the guardian, the caregiver, and the multi-disciplinary team, if appropriate. The notification shall include, but not be limited to: the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints.

§741.214 Limitations on the Use of Telecommunications Technology by Speech-Language Pathologists

(a) The limitations of this section apply to the use of telecommunications technology by speech-language pathologists.

(b) Supervision of a licensed assistant and/or intern in speech-language pathology shall not be undertaken through the use of telecommunications technology unless an exception to this prohibition is secured pursuant to the terms of this section.

(c) An exception to subsection (b) of this section shall be requested by the speech-language pathologist submitting the prescribed alternate supervision request form for review by the board's designee, within 15 working days of receipt of the request. The board's designee shall approve or not approve the plan. The plan shall be for not more than one year's duration.

(d) If the exception referenced in subsection (c) of this section is approved and the reason continues to exist, the licensed supervising speech-language pathologist shall annually resubmit a request to be evaluated by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan.

(e) Telehealth services may not be provided by correspondence only, e.g., mail, email, faxes, although they may be adjuncts to telepractice.

§741.215 Requirements for Providing Telehealth Services in Speech-Language Pathology

(a) A provider of telehealth services who practices in the State shall be licensed by the board.

(b) A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the service

§741.216 Requirements for Providing Telepractice Services in Audiology

(a) Unless otherwise legally authorized to do so, an individual shall not render telepractice services in audiology from the State of Texas or to a client in the State of Texas, unless the

individual qualifies as a provider as that term is defined in this subchapter and renders only those telepractice services that are within the course and scope of the provider's licensure and competence, and delivered in accordance with the requirements of that licensure and pursuant to the terms and conditions set forth in this section.

(b) The provider shall use only telecommunications technology that meets the definition of that term, as defined in this subchapter, to render telepractice services. Modes of communication that do not utilize such telecommunications technology, including telephone, facsimile, and email, may be used only as adjuncts.

(c) Subject to the requirements and limitations of this section, a provider may utilize a facilitator at the client site to assist the provider in rendering telepractice services.

(d) The provider shall be present at the provider site and shall be visible and audible to, and able to see and hear the client and the facilitator via telecommunications technology in synchronous, real-time interactions, even when receiving or sending data and other telecommunication transmissions in carrying out the telepractice services. The provider is responsible for the actions of the facilitator and shall monitor the client and oversee and direct the facilitator at all times during the telepractice session.

(e) The provider of telepractice services, prior to allowing a facilitator to assist the provider in rendering telepractice services, shall verify and document the facilitator's qualifications, training, and competence in each task the provider directs the facilitator to perform at the client site, and in the methodology and equipment the facilitator is to use at the client site.

(f) The facilitator may perform at the client site only the following tasks:

(1) Those physical, administrative, and other tasks for which the provider has trained the facilitator in connection with the rendering of audiology services for which no form of license, permit, authorization or exemption under the Texas Occupations Code is required; and

(2) a task for which the facilitator holds and acts in accordance with any license, permit, authorization or exemption required under the Texas Occupations Code to perform the task.

(g) A provider shall not render telepractice services to a client in those situations in which the presence of a facilitator is required for safe and effective service to the client and no qualified facilitator is available to the client during the telepractice session.

(h) The scope, nature, and quality of the telepractice services provided, including the assistance provided by the facilitator, shall be commensurate with the services the provider renders in person at the same physical location as the client.

(i) The provider shall not render telepractice services unless the telecommunications technology and equipment located at the client site and at the provider site are appropriate to the telepractice services to be rendered; are properly calibrated and in good working order; and are of sufficient quality to allow the provider to deliver equivalent audiology service and quality to the client as if

those services were provided in person at the same physical location. The provider shall only utilize telecommunications technology and other equipment for the provider's telepractice which the provider is competent to use.

(j) Providers and facilitators involved in the provider's delivery of telepractice services shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements. Documentation of telepractice services shall include documentation of the date and nature of services performed by the provider by telepractice and of the assistive tasks of the facilitator.

(k) Except to the extent it imposes additional or more stringent requirements, this section does not affect the applicability of any other requirement or provision of law to which an individual is otherwise subject under this chapter or other law. **SUBCHAPTER P JOINT RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE**

§741.231 Purpose

Pursuant to Texas Occupations Code, §401.2022 and §402.1023, the State Board of Examiners for Speech-Language Pathology and Audiology (board) and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee), with the assistance of the department, are to adopt rules jointly to establish requirements for the fitting and dispensing of hearing instruments through the use of telepractice. The rules in this subchapter contain joint rules that set forth the requirements for the fitting and dispensing of hearing instruments through the use of telepractice.

§741.232 Definitions

Unless the context clearly indicates otherwise, the following words and terms, when used in this subchapter, shall have the following meanings:

(1) Acts--Texas Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists, and Texas Occupations Code, Chapter 402, relating to Hearing Instrument Fitters and Dispensers.

(2) Board--The State Board of Examiners for Speech-Language Pathology and Audiology.

(3) Client--A consumer or proposed consumer of services.

(4) Client site--The site at which the client is physically located.

(5) Committee--The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

(6) Facilitator--The individual at the client site who assists with the delivery of telehealth services.

(7) Fitting and dispensing hearing instruments--The measurement of human hearing by the use of an audiometer or other means to make selections, adaptations, or sales of hearing instruments. The term includes the making of impressions for earmolds to be used as a part of the hearing instruments and any necessary post fitting counseling for the purpose of fitting and dispensing hearing instruments.

(8) Hearing instrument--Any wearable instrument or device designed for, or represented as, aiding, improving or correcting defective human hearing. This includes the instrument's parts and any attachment, including an earmold, or accessory to the instrument. The term does not include a battery or cord.

(9) Provider--An individual who holds a current, renewable, unrestricted audiology license under Texas Occupations Code, §401.302 and §401.304; an individual who holds an audiology intern license under Texas Occupations Code, §401.311; or an individual who holds a current, renewable, unrestricted license under Texas Occupations Code, Chapter 402, that authorizes the individual to fit and dispense hearing instruments without supervision.

(10) Provider site--The physical location of the provider of telehealth services which is distant or remote from the client site.

(11) Telecommunications--Interactive communication at a distance by concurrent two-way transmission, using telecommunications technology, of information, including, without limitation, sound, visual images, and/or computer data, between the client site and the provider site, and required to occur without a change in the form or content of the information, as sent and received, other than through encoding or encryption of the transmission itself for purposes of and to protect the transmission.

(12) Telecommunications technology--Computers and equipment, other than telephone, email or facsimile technology and equipment, used or capable of use for purposes of telecommunications. For purposes of this subchapter, the term includes, without limitation:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and storage and forward; and

(C) other technology that facilitates the delivery of telehealth services.

(13) Telehealth services--The fitting and dispensing of hearing instruments through telepractice to a client who is physically located at a site other than the site where the provider is located.

(14) Telepractice--The use of telecommunications technology for the fitting and dispensing of hearing instruments.

§741.233 Requirements for Providing Telehealth Services for the Fitting and Dispensing of Hearing Instruments

(a) Unless otherwise legally authorized to do so, an individual shall not render telehealth services from the State of Texas or to a client in the State of Texas, unless the individual qualifies as a provider as that term is defined in this subchapter and renders only those telehealth services that are within the course and scope of the provider's licensure and competence, and delivered in accordance with the requirements of that licensure and pursuant to the terms and conditions set forth in this section.

(b) The provider shall use only telecommunications technology that meets the definition of that term, as defined in this subchapter, to render telehealth services. Modes of communication that do not utilize such telecommunications technology, including telephone, facsimile, and email, may be used only as adjuncts.

(c) Subject to the requirements and limitations of this section, a provider may utilize a facilitator at the client site to assist the provider in rendering telehealth services.

(d) The provider shall be present at the provider site and shall be visible and audible to, and able to see and hear the client and the facilitator via telecommunications technology in synchronous, real-time interactions, even when receiving or sending data and other telecommunication transmissions in carrying out the telehealth services. The provider is responsible for the actions of the facilitator and shall monitor the client and oversee and direct the facilitator at all times during the telehealth session.

(e) The provider of telehealth services, prior to allowing a facilitator to assist the provider in rendering telehealth services, shall verify and document the facilitator's qualifications, training, and competence in each task the provider directs the facilitator to perform at the client site, and in the methodology and equipment the facilitator is to use at the client site.

(f) The facilitator may perform at the client site only the following tasks:

(1) those physical, administrative, and other tasks for which the provider has trained the facilitator in connection with the fitting or dispensing of hearing instruments for which no form of license, permit, authorization or exemption is required by law; and

(2) those tasks for which the individual who is acting as a facilitator otherwise holds and acts in accordance with any license, permit, authorization or exemption required by law to perform the tasks.

(g) A provider shall not render telehealth services to a client in those situations in which the presence of a facilitator is required for safe and effective service to the client and no qualified facilitator is available to the client during the telepractice session.

(h) The scope, nature, and quality of the telehealth services provided, including the assistance provided by the facilitator, shall be commensurate with the services the provider renders in person at the same physical location as the client.

(i) The provider shall not render telehealth services unless the telecommunications technology and equipment located at the client site and at the provider site are appropriate to the telehealth services to be rendered; are properly calibrated and in good working order; and are of sufficient quality to allow the provider to deliver equivalent fitting and dispensing service and quality to the client as if those services were provided in person at the same physical location. The provider shall only utilize telecommunications technology and other equipment for the provider's telepractice which the provider is competent to use.

(j) A client's initial professional contact with a provider shall be in person at the same physical location.

(k) Providers and facilitators involved in the provider's delivery of telehealth services shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements. Documentation of telehealth services shall include documentation of the date and nature of services performed by the provider by telepractice and of the assistive tasks of the facilitator.

(l) Except to the extent it imposes additional or more stringent requirements, this section does not affect the applicability of any other requirement or provision of law to which an individual is otherwise subject under this chapter or other law.